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**PRODUCTIVITY COMMISSION**

**DRAFT REPORT ON WHEAT EXPORT MARKETING ARRANGEMENTS**

**DR W. CRAIK, Presiding Commissioner  
MS A. MacRAE, Commissioner**

**TRANSCRIPT OF PROCEEDINGS**

**AT MELBOURNE ON WEDNESDAY, 28 APRIL 2010, AT 10.16 AM**

**Continued from 14/12/09 in Adelaide**

## INDEX

	<u>Page</u>
AUSTRALIAN BULK ALLIANCE: SIMON McNAIR	317-324
VICTORIAN FARMERS FEDERATION: RUSSELL AMERY STEPHEN SHERIDAN	325-339
AUSTRALIAN WHEAT BOARD LTD: MITCH MORRISON PETER McBRIDE	340-363
AUSTRALIAN GRAIN EXPORTERS ASSOCIATION: ROBERT GREEN ROSEMARY RICHARDS ALICK OSBORNE	364-383

**DR CRAIK:** If I could welcome you all here today to the public hearings for the Productivity Commission National Inquiry Into Wheat Export Marketing Arrangements following the release of the draft report in March. My name is Wendy Craik and I'm the presiding commissioner on this inquiry and my fellow commissioner is Angela MacRae.

The purpose of this round of hearings is to facilitate public scrutiny of the commission's work and to get comment and feedback on the draft report. Following this hearing in Melbourne, hearings will also be held in Perth, Sydney and Adelaide. We will then be working towards completing a final report to government by 1 July 2010, having considered all the evidence presented at the hearings and in submissions as well as other informal discussions. Now, participants in the inquiry will automatically receive a copy of the final report once it's released by the government which may be up to 25 parliamentary sitting days after completion, and I stress parliamentary sitting days, which is not just days after completion.

We would like to conduct all hearings in a reasonably informal manner but I remind participants that a full transcript is being taken. For this reason, comments from the floor cannot be taken, but at the end of the proceedings of the day, I will provide an opportunity for any persons wishing to do so to make a brief presentation. Participants are not required to take an oath but should be truthful in their remarks. Participants are welcome to comment on the issues raised in other submissions. The transcript will be made available to participants and will be available from the commission's web site following the hearings and submissions are also available on the web site.

To comply with the requirements of the Commonwealth Occupational Health and Safety legislation, you're advised that in the unlikely event of an emergency requiring the evacuation of this building, you should follow the green exit signs to the nearest stairwell. Don't use the lifts and please follow the instructions of the floor wardens at all times. If you believe you would be unable to walk down the stairs, it's important that you advise the wardens who will make alternative arrangements for you. Unless otherwise advised, the assembly point for the commission in Melbourne is Lansdowne Street on the east side of the Treasury Gardens.

We've just received a lot of submissions in the last day or so and we hope that they will all be up on the web site today for your availability but I should also say that given that we received the submissions that we're hearing about today, both Angela and I have read them as best we can but perhaps not as thoroughly as we would have liked to.

The other thing I should mention to you is that we have someone in here, a journalist from the Weekly Times, who will be taking a couple of photos of the proceedings; just to let you know that that will be occurring, so there will be

someone taking a few photographs.

Now I would like to welcome our first participant, Simon McNair, who is appearing for Australian Bulk Alliance. I would ask that you introduce yourself and give your name and organisation for the record. Thanks very much, Simon.

**MR McNAIR (ABA):** Thank you. My name is Simon McNair. I'm the general manager of Australian Bulk Alliance. Just to update the commission's records, a week ago Australian Bulk Alliance became a wholly owned subsidiary of the Sumitomo Corporation. Previously Sumitomo owned 50 per cent of the shares in ABA and they acquired the remaining 50 per cent from Viterra last Wednesday.

ABA has had a look at the draft recommendations of the commission and is fully supportive of all recommendations and we note with interest the commission has been asking for comment on, in particular, the shiploading arrangements in Western Australia. Whilst we don't participate in Western Australia, as our facilities are in Melbourne for shiploading, I would like to make some comments about some comments that grain exporters have made since those recommendations have been made.

I find it very interesting that numerous grain exporters were complaining a year ago on how operations worked in terms of loading vessels and they are complaining this year about how the operations worked in loading vessels. I have heard a number of major exporters comment that the methodology that is being operated in some states is unsustainable economically. I find that very disconcerting, as the bulk-handling companies or the facility owners have got immense capital at risk and all they're trying to do is get a return on their capital, whilst the exporters are finding it difficult that as market conditions change more than anything else, that they have to start taking some consideration of other participants in the supply chain.

Prior to deregulation of wheat export marketing, port operators like ourselves were dealing with one customer for wheat exports which made it relatively easy and fairly cost-effective for the operations. With export marketing, we did know that there would be some changes and we tried to put in place arrangements in dealing with numerous clients and in general that has worked very well from our point of view. Because of the uncertainty of shipping going forward, that you weren't solely dealing with the AWB, we, like other bulk handlers, looked to get our exporters to pre-confirm, you might say, their export arrangements and make a contribution to the opportunity costs of the facility being held there at all times.

Last year in WA, people found that without that pre-booking, as it were, there were some shipping issues to deal with, although you can't blame one party or the other. It happened on both sides. This year, all the parties, particularly the bulk handlers, are looking for a financial commitment to cover the opportunity costs of

those facilities, whether they're used or not, and to get firm commitments from shippers going forward. We're now finding problems with that situation where the exporters are complaining about that. The fact is we have facilities sitting at the port that potentially the industry or the grain exporters want to sit there at their beck and call. I think it's entirely appropriate that the port operators do seek a contribution to the capital costs of providing those facilities, whether they're used or not, particularly if they are to be open to all players and have these open access arrangements. I am aware that the Melbourne Port Terminal is not subject to that but we have given a commitment to the WEA that we will provide open access.

So I see what's happened last year and this year as just the industry coming to grips with change. It's never going to get it right the first time but I do find it very galling that we have a lot of exporters saying that this pre-booking of shipping is uneconomic, when in fact the terminal operators have hundreds of millions of dollars tied up in these facilities sitting around for the beck and call of the exporters. So I find it quite positive that the commission has made those recommendations and I would just like you to take on board our comments that there's more than just the exporters at play in this industry.

**DR CRAIK:** Thanks very much, Simon. We might start with a few questions. Angela, do you have any questions to start off with?

**MS MacRAE:** I guess given the change in your ownership structure now, have you investigated yet whether you might actually be required to have an access undertaking now that you're - - -

**MR McNAIR (ABA):** The corporate answer to that is that is something for Sumitomo to deal with, but I am aware that Sumitomo has been in discussions with the WEA. They have a number of courses of action that they may take. To my knowledge there's been nothing finalised there, but we have commercial commitments through to 30 September this year with our clients at the Melbourne terminal. If the commission's recommendations are put in place in a year from then, there's only really a gap of one year where there may not be some coverage, but I'm sure that's what Sumitomo is talking about.

Also, you would be aware that Sumitomo in the last couple of months recently acquired a 50 per cent interest in the Emerald group of companies which is also an accredited wheat exporter, as well as Sumitomo Australia. So they have a couple of courses of action but nothing has been finalised to my knowledge.

**MS MacRAE:** We've heard a lot in some of our submissions and at some of the other forums that we've been to about concerns around wheat quality and I wondered if you had any comments on that from your angle, in particular - I guess not so much that it's about destination, but customers saying the quality is not what it used to be.

**MR McNAIR (ABA):** In terms of the quality of grain that's received into a grain terminal, then loaded onto the vessel, that's always - and this hasn't changed - been under the control of the bulk-handling company, the terminal operator. They will receive the grain that the export marketer delivers to it and load that grain onto the ship. So nothing has changed there. We're still in control of the quality from that point of view. In terms of the quality that the buyer has contracted, there are commercial arrangements in place. Have we seen any major change in quality since wheat export marketing has been deregulated? Not really. We do see our exporters asking us to blend different qualities of wheat to meet contractual commitments. That hasn't changed. That happened under the regulated regime, both bulk and containers. In terms of containers, we have seen nothing different there either. The quality parameters haven't changed. People get us to provide a service and we do so.

**DR CRAIK:** Do you hear more complaints from overseas buyers about Australian wheat quality now or not?

**MR McNAIR (ABA):** No. We've hosted quite a few delegations on behalf of marketers through our facility. We have not had any increase. I'm not saying there was a lot to start with, but from time to time things do happen, but no, nothing major.

**MS MacRAE:** If you had a customer that wanted to look at your quality testing or do some of their own at the point of loading, for example, is that something that you're - - -

**MR McNAIR (ABA):** Yes, many customers have a requirement for an independent surveyor to check the quality and we accommodate that. We won't let them instruct us on our operations but we will let them collect a sample, yes.

**DR CRAIK:** One of the things that I don't recall we've heard any complaints about is the system that your port uses for booking vessels for loading grain. I don't recall we've had actually had any people complaining about it.

**MR McNAIR (ABA):** Because there hasn't been many vessels.

**DR CRAIK:** What sort of system do you use?

**MR McNAIR (ABA):** Prior to this year we've had a structure of charges that were fairly diverse and we've tried to simplify them. There was a fee to nominate a vessel and a fee to receive the grain into the terminal, a fee to load it onto the ship and a fee to cover time based storage while it was in the terminal. That hasn't changed. What we have done this year in the uncertainty about shipping, and as I mentioned before about opportunity costs, the fee to nominate a vessel has increased but there's been a reduction in the other fees. Overall there's been an increase. What we also did was,

rather than waiting for a client to nominate a vessel name to pay that nomination fee, we allowed them to nominate a to-be-advised vessel and a particular tonnage for a particular month, and we would manage that. So many customers paid that well in advance and many did not. So we had commitments from clients - and this is probably a reflection of what happened in Western Australia last year - where more than six or seven months out, they may have paid this nomination fee to load a particular tonnage in a particular month and we catered for multiple vessels for that tonnage. If they didn't use that, originally we said, "Use it or lose it," but at the start of the year when it became obvious that Australian wheat, particularly on the east coast, was not going to be exported early, we then did write to all our clients who had made these pre-existing bookings and said, "Look, we understand what's going on. If you want to change them, you can do that. You can shift them."

**DR CRAIK:** At no extra cost?

**MR McNAIR (ABA):** At no extra cost, "But you have to use them by 30 September." For those clients who did not shift their earliest bookings, they would get priority. For those who wished to shift them, we'll do our best endeavours but won't be held liable if we can't load in that particular time and that was just trying to be understanding of what the customer needs. Can I say though that this pre-booking, every grain terminal has done it, some in a different manner than others. We've been looking at it for a number of years because we did find that marketers would nominate a vessel or a month and then it wouldn't turn up, and we would have lost an opportunity because if you only find two out weeks before, it's not as if you can on-sell that capacity to someone else, so I think that was coming anyway.

So after what happened in Western Australia, many marketers went ahead and booked a lot of slots. This year they're not exactly using them. The market has changed, the world market. It's not a reflection of the bulk handlers. So I think potentially next year it will go back the other way, where they will wait till the last minute, but the option will still be there. Those clients who commit to our business will use it. The fee that we charge is probably about 25 per cent of the total fee that they may get if they go through the whole process of loading a vessel, and I think that's a very small fee in comparison with the capital costs of the terminal just sitting there.

**DR CRAIK:** So if they don't use it, they end up paying about 25 per cent of what they would if they used the whole - - -

**MR McNAIR (ABA):** They've prepaid so they don't get it back.

**DR CRAIK:** Okay.

**MR McNAIR (ABA):** That's happening in other states. In other states, that fee is substantially higher than others, so I can understand why what shipping there is might be happening further away than where we are.

**DR CRAIK:** Do you have any views on information in the industry?

**MR McNAIR (ABA):** Being an ex-trader, I can understand why people want information. It's knowing something that someone else doesn't know is where you make your money these days. There's a lot of information that the bulk handlers do have in terms of who owns what stock, the quality of the stock; whether that should be publicly available, I'm not sure. It's proprietary information, commonly owned by both the owner of the grain and the bulk handler. The question I often get asked is, "If we don't own grain in your system, how do we find out what's there and the quality of it?" and my answer to that is, "Fine, you buy the grain and then you'll find out." But I can understand from a global perspective people trying to do their S and Ds but that's at a macro level. Down at the micro level is what's at every site. No, I don't see that as that important.

In terms of quality, that can become important because people are blending to meet contractual specifications and that information can be available for a fee. It is proprietary information. So for a fee, if you don't own stock there; if you own it there, we provide that information.

**DR CRAIK:** So you wouldn't see that there's a necessity for information beyond the recommendations we've put in place to make publicly available?

**MR McNAIR (ABA):** The information that's collected now by ABS and ABARE, it's out of date when it's published, so from my point of view, when I was a trader, it needs to be up to date or it can be a bit useless. We're talking about a month and a half behind.

**DR CRAIK:** Yes, three to six weeks.

**MR McNAIR (ABA):** Yes. Down here at the Port of Melbourne, they make available container statistics and again, that comes out more than a month later than it happens. So I think the timing of it has got to be very relevant if you're going to provide it, otherwise it can be quite useless.

**DR CRAIK:** Okay.

**MS MacRAE:** Just in relation to the containers, there's a couple of very high-profile cases that we hear regularly and it seems to be fuelling the general view that container trade quality has gone down. I happened to be at a forum where you mentioned that you knew a lot about the example that we've heard about a few times.



Now, you don't have to go into detail but I guess - - -

**MR McNAIR (ABA):** The recent one?

**MS MacRAE:** I think from the look on your face, you probably did know the one.

**MR McNAIR (ABA):** There was one a few weeks ago in the Chennai Times, yes.

**MS MacRAE:** Is there an issue there that needs addressing or is that something that's - - -

**MR McNAIR (ABA):** That particular one was about chemical residues, whether they are there or not. It was interesting, at the same time there was a substantial fall in the market price for wheat, and when I was a trader, that wasn't uncommon to find in some markets, because you might do a sale three or four months out from delivery and things can change. In terms of the quality that we see with our client base going through the terminal, look, the biggest change - and I think I mentioned this at the VFF Grains Group annual conference - was the number of supply chains that you see now and the fact that we and other bulk terminals are now prepared to accept grain coming direct off farms. We're starting to keep a lot of statistics on the quality of that. I think that there is less quality control associated with that because it hasn't gone through the up-country system where there is a formal process of quality control. I'm not saying the farmers aren't doing the right thing, it's just they're not going through that process. So there may be this perception that a lot of that has been going into containers and therefore the quality is less, but at the same time, there's a contract in place. It's a commercial agreement. You will work it out through that. We only load the grain that our clients give us. If they wish us to blend the grains, we do what they tell us; simple as that.

**DR CRAIK:** What sort of percentage is being delivered direct by - - -

**MR McNAIR (ABA):** This year, 60 per cent by road and about 40 per cent by rail. 10 years ago it was all rail. So we are finding that we're seeing at this time of the year insect issues because eggs have been hatching and so forth. At the start of February, over 90 per cent of people who had booked to bring it on road were coming through. Come late March, we were getting down to 65 per cent. That reflected to us that people were finding problems with the quality of grain when they were loading the trucks, so the truck didn't come through. Also we're keeping stats on insect rejections at the terminal and that's started to increase, but it's at that time of the year too. It's also the time of the year that we might find some contamination in the truck if it's previously carried fertiliser, in the grain. If it's not properly cleaned out, that can be an issue, but this always happens at this time of the year.

**DR CRAIK:** Is most of the direct-to-port deliveries the farmers delivering their

own or is that other traders - - -

**MR McNAIR (ABA):** It will be under contract. Yes, the traders will either be buying off farm and using their own transport or on a deliver to Melbourne basis, so we see both.

**MS MacRAE:** If you did see a problem, what sort of systems do you have in relation to traceability?

**MR McNAIR (ABA):** We can trace grain coming in and all the way through the terminal from bin to bin, but what we do, if it's outside the contract specification, be it for insects or anything else, we have a prearranged plan with the buyer, the marketer; they either want us to refer it to them, because they might want to blend it off, that's a way of making a dollar, or reject it. With insects, we prefer to reject it outright. We have AQIS-accredited premises. We don't really want to introduce live insects there. Then there's a big issue because if a farmer is bringing it down, if it is a farmer or a private trader, who's probably paying 30 or 40 dollars a tonne to bring it down, if he gets rejected, then he can't do anything about it and it goes back for the same amount. It's a very big economic signal to make sure the right stuff goes on in the first place.

**DR CRAIK:** Do you think a lot of these things - the fact that we've gone from a highly regulated industry to a deregulated industry and, given the volatility in the market, do you think it's a combination of all those things and that over time, we'll see less and less of that sort of problem, the quality issue, arising?

**MR McNAIR (ABA):** Yes. I know a number of participants in the industry will get on-farm QA and various things like that. GTA and the road transport industry have got a code of conduct in place, VFF is looking at on-farm QA, so the industry will work it out. What we are seeing is more grain coming from the farm to the terminal. That's probably because the buyers have been prepared to buy it that way, whereas under a regulated market, there wasn't a signal in those pooling arrangements that the handling cost deductions were cheaper if you delivered direct to port compared to country. It was a pooled-handling cost. So now we're seeing that separated out; you are bypassing the country cost. So those sort of things - deregulation of the wheat export market, yes, I think it's probably been a driver of that.

**DR CRAIK:** I don't think I've got any more questions. Unless you have something else you would like to say, Simon, I think that's all we've got for you.

**MR McNAIR (ABA):** No, that's all.

**DR CRAIK:** Thanks very much for coming along.

**MS MacRAE:** Thank you.

**MR McNAIR (ABA):** Thank you.

**DR CRAIK:** Thanks for your information. We've got 15 minutes until our next appearance. If you're prepared to start now, we might start now, Russell, if that's all right with you, if you don't mind starting now.

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**DR CRAIK:** Russell, if you and Stephen wouldn't mind saying your names and organisation for the record and then if you have any opening remarks, it would be welcome to hear them.

**MR AMERY (VFF):** Russell Amery, president of the Victorian Farmers Federation Grains Group.

**MR SHERIDAN (VFF):** Stephen Sheridan, Grains Group manager for VFF.

**DR CRAIK:** Thank you.

**MR AMERY (VFF):** I'd just like to again thank the commission for the opportunity to present here today. We've had an opportunity to read your report and as growers, we are concerned about some of the findings that you've handed down. We're probably concerned that the commission is placing too much emphasis on the policy guideline to reduce regulation but not enough emphasis on the impact on growers and the regional communities, and the growers as consumers of those industry services and not enough emphasis on legislation for a sustainable industry structure.

We are concerned that by the removal of the accreditation that the commission has had an emphasis on measuring costs to the exporter and not necessarily benefits back to the grower. We were concerned that the assumption was made of reducing benefit to the accreditation because current exporters are all reputable, and we know that while those in the industry currently have been able to portray a sense of diligence and have been doing the right thing, it's not to say that in the future, somebody might enter the market who is not as reputable as those who are currently there. We believe there should be a measure of the benefits to growers of having the regulation removed, and what are the costs that are going to be borne by growers by removing the regulation because of the excess time and energy we are going to have to spend and make sure that each of those exporters are reputable?

We're concerned that with the abolition of WEA, there will be no more checks and balances in the system. As we said in our submission and previously, after one season, especially for those of us in Victoria, we've had one harvest where we've had wheat to export, that the removal of WEA is probably a little bit premature and we'd like to see that body in place for a little bit longer to make sure that growers can adapt, growers can change, and WEA is removed at a time when especially the growers in the industry understand what's going on, not just after one harvest.

Industry good is something we believe is a product that's probably been left behind. Sadly, as you're probably aware, the national body for grains and the grower side of things is floundering. We would like to see that there is a national body to replace GCA that can do some of those grain industry-good functions. At the same

time, having said that, we believe that GRDC should maintain management of the Wheat Classification Council. They have taken on that role and we believe they should maintain that for some time, to make sure that is independent of both growers and industry, but it's somebody who plays that role independently for the long-term sustainability of our industry.

Quality control, you spoke to Simon, it's an issue that we believe we need to keep on top of and make sure the grain that we do export out of this country is of the high standard that we've been able to achieve for many years and continues to do so, and we can hold our heads up as producers and exporters of quality grain. As you're aware, there's an industry code of conduct being put in place, version 1 last year, being revised, and over time we believe it's something that we can rely on but at the moment, it's something in progress.

As far as the port access regimes are concerned, we would like to see that that remain in place for a period of time to make sure that the industry does sort itself out and it's ready to get over the problems and hurdles that we've had in the last two years. As was alluded to by the previous speaker, there were issues in Western Australia especially two years ago. To combat those issues, things have changed enormously. Has it gone too far or has it gone far enough? Right now, the voluntary undertakings, is that the right way to go or should we continue with enforceable regimes? We've believed in enforceable regimes for some time. I think I'll leave it there, unless you want to make some comments, Stephen.

**MR SHERIDAN (VFF):** No. We'll wait for the questions; there'll be plenty of those.

**DR CRAIK:** Thanks very much, Russell and Stephen, for your submission and obviously thanks for your previous submission too and your comments today. Angela, do you want to start the questions?

**MS MacRAE:** Maybe if we just take the issues in the order that you had them in in your submission.

**MR AMERY (VFF):** Okay.

**MS MacRAE:** I guess the first thing - perhaps it's not the forum to put our views here - but in terms of looking at the welfare of growers, I guess it's imperative that the commission look not just at today's growers but the future of the industry more generally. So we saw our role primarily as looking at the functioning of the grain market as a whole and the marketing arrangements attached to that from a national interest perspective in terms of what's most likely to see a healthy, growing, vibrant market over time. So I think it's reflected in our report that we recognise that there are, in moving to these new arrangements, costs and benefits and we're not

suggesting it's an easy thing for the industry at all. But in trying to ensure that we've got settings that are in place for growers long term and nationally to make sure that we're getting as much efficiency in the industry as we can - and that's basically what we're going to need to keep growers competitive in the longer term - it's really that framework that we've taken. Now, you might still disagree with our conclusions but I guess I just want to put on the record that we feel we have been consistent, both with what the WEMA required but also what we're required to do under our own act. As I said, we've only had your submission for a short time, so I'm prepared to go away and have another look at that, but I just wanted to put on the record that that was the way that we've really framed our review.

But coming to the more specific issues, in relation to accreditation in particular, I guess as sort of a first question, we looked at accreditation and in looking at the specific arrangements that were in place for wheat exports, we thought, "Why is export wheat different from any other market?" So why do you think there's a benefit to your members in having an accreditation scheme for the exports of bulk wheat but not for their domestic providers - they might well be the same people - and other people that they deal with? Obviously you will have other major dealings if you're making big capital purchases for your farm and all those things. What makes the accreditation arrangements for the exporters so important for your members, because there is a cost involved, I guess. From our viewing of the evidence as we saw it, it seemed like there was relatively little benefit, there was no guarantee anyway, and sure, the government could independently do some sort of due diligence there, but wouldn't your members be doing that in relation to everyone else they deal with in their business life?

**MR AMERY (VFF):** I'll start and Stephen can fill in the gaps. Obviously a lot of the players that have moved into the space, some of them are new, some of them were existing traders. We believe that having a system of accreditation did give us some peace of mind. Wheat, in relation to the rest of the products, is probably the greatest or the largest of our exportable commodities. When you see what we produce, a lot of the barley is normally domestically utilised here in Victoria, whether it's malted, mulched or put down an animal's throat, and the same with some of the other smaller products. So wheat, being the largest of the crops, definitely it is the greatest share of most growers' income and some level of protection or some level of assurance that they're going to be paid, especially in these first few years, as we change and as we move through this new system, yes, we've had to learn to do our due diligence on traders. Again, it's a cost that we all have to bear. We certainly would like in those initial years some sort of security or some sort of assurance that the people we deal with are right and proper.

**DR CRAIK:** How long do you think that assurance should go on for?

**MR AMERY (VFF):** As I said before, I think, Wendy, most of us in Victoria,

we've had this last harvest and sadly it wasn't as good as we'd hoped, and the harvest before, for most of us, we didn't have any wheat to export, so we weren't playing in that space. So three to five years is probably where we're thinking, to give people a chance to adapt to change and be able to readily move into that space.

**DR CRAIK:** I notice that you suggest the notion that it might be able to be done more efficiently through an ESCOSA-style regime which might reduce the costs, but I guess the question would be, given that the ESCOSA-style regime is kind of a self-assessment tick-the-box kind of a regime, where my understanding is that ESCOSA doesn't actually do any independent assessment of the veracity of the ticks on the boxes, then I guess the question I would have is: would a scheme like that really meet the requirements, the issues that you're raising? Would it really give growers that level of security that maybe you feel that the WEA process - - -

**MR SHERIDAN (VFF):** If I can address that one, Wendy. Could I just come back to one of my concerns here or interpretations of the growers' concerns on accreditation is that it is a broader issue. You talked earlier about, if you like, having the long-term benefits of a competitive marketplace and I think we agree, and we were approaching the report in the same vein, but we were also concerned about the short-term impacts, hence there's a bit of a focus, as you've rightly picked up, on those potential short-term impacts and transitional arrangements. So we were focused on - and, Wendy, you've alluded to it as well - how long would you need to have some sort of transition rearrangements in place.

These were some of our concerns, that whilst you're focusing on the long term and getting to a fully competitive deregulated market with minimal regulation, our concern was what will be the impact on growers in the interim and should there be some regulation and an industry structure put in place for the longer term, but also some transitional arrangements. So coming back to accreditation and ESCOSA I think was more where we picked up on the point that was made in your report, where we were saying a more efficient regulator could be put in place, you could possibly scale back on the accreditation because it is a transition. You might have a lighter-handed approach, but still I think we also said in our submission that such a wider-handed accreditation process should be backed by some legislative powers if needs be.

So if exporters were to put in information to the regulator, whoever that may be, and there were some industry complaints and that regulator has some power, whether it's pecuniary or information discovery powers, to then follow up. I think our concern with maybe the barley arrangements in South Australia is they were very light handed, to the point that they're not even looked at and maybe growers aren't even aware that if there is a problem, that they have that avenue of recourse. So we were suggesting there may be some middle ground there basically. We weren't necessarily suggesting you should duplicate what is the case in South Australia.

**DR CRAIK:** Okay, thanks. Unless you've got any more questions on accreditation - - -

**MS MacRAE:** I guess the only other point I make was just that when you had your panel at your grains conference, I was a bit surprised that accreditation wasn't mentioned once in any of the questions or anything from the floor, that nobody raised it as an issue. Now, it might be partly because our report had been out for a while and people clearly hadn't read the detail of it, but in the discussions of the panel and the questions from the floor, it was something I was expecting at least one of the people there might have mentioned as an issue. While there was a lot of concern around quality and some of the other things we'll talk about later, accreditation didn't rate as an issue that people had raised as something that they either valued or felt should be continued. So I guess I was just interested in how strongly you think the value of accreditation is held among your membership and how broad the awareness is of it, because to be quite frank, at morning tea when I talked about it with a few people, they said, "Have we got an accreditation system? What's involved?" So again, I guess your point, that if you've got a system that people aren't aware of and that they're not going to go and complain to in any case if they don't know it's there, do you feel that's an issue as well and how strongly held is the view that accreditation is of value?

**MR AMERY (VFF):** I suppose it's something that we would value, yes. Obviously not all growers are aware of what's happened. A lot of growers have done what they have traditionally done and been focused on producing grain because they know they've been able to sell it, and now they've got to get used to what's out there. So, yes, there would be some people who would not understand what is done and what is necessary to become an accredited exporter and others are acutely aware of what is there and are disappointed that that system that's been put in place, you're recommending to be removed very quickly.

**DR CRAIK:** We might move on to quality control and independence. I note you suggest that quality control should be devised in consultation with the industry but implemented by an independent industry body or a grower body like the one proposed by Grain Producers Australia. Do you really think that industry-good functions should really be the preserve of a grower-only body when you're looking at the totality I guess of industry-good functions?

**MR AMERY (VFF):** As we said, it has to be independent. We don't particularly want the quality control to be wholly and solely the domain of the exporters or the traders or simply the growers. It has to be a body that can be independently accessed by all of those and have input by all of those so that it is not beholden to one or the other, it's something that has a degree of independence and therefore has a degree of rigour and respect in the industry.



**DR CRAIK:** Okay. One of the difficulties in the grain industry is that the industry seems to struggle in reaching agreement, even a part of the industry, on how an industry body should look, let alone between parts of the industry as to how an industry body should look. I guess that seems to be a bit of a challenge. Later on in your submission you talk about the desire for some government transitional funding to assist in setting up some kind of industry body and maybe even legislation to do it. I guess the challenge - you seem to have great faith in the government finding the right answer when the industry - because I guess government would come to the industry and say, "What should an industry body look like?" and there seems to be some difficulty in coming up with an agreed answer there, or there are many answers I suppose really.

**MR AMERY (VFF):** Yes, many people say they are playing in their space and I think it's a reflection of where we've come from, with having a controlled export system where growers focused wholly and solely on producing growth and weren't on a whole concerned about what happened because we had this great body who took control of our grain, did the right thing with it and exported it, and now all of a sudden, we no longer have that and they are starting to realise that there are a whole lot of things out there that that body used to do which collectively the exporters will do for themselves. But as growers, we need to get organised, and as you know, when you put five people in a room, you will get five opinions.

**DR CRAIK:** Lucky if you only get five.

**MR AMERY (VFF):** We've got to try and bang our heads together and make it work. You talked about the transitional funding and it was probably disappointing that when you look at some of the other industries that have been deregulated, the amount of funds and the things that were done to help people transition from a regulated market back through to a totally unregulated market was substantial, but in our industry, it was very minimal. Of the funds that were available, very little of that was actually got down to the ground to the grower to do anything or to help to adapt. I think it was less than \$75,000 that we actually got in Victoria to run some grower workshops for some marketing workshops. There were some other things done with that money for the benefit of the people but - - -

**DR CRAIK:** The question for the government, one would be: why should the government fund the establishment of some kind of industry body? That would be the first question. Where's the market failure there? How should that funding be raised? Should it be ongoing and what should the structure of such a body be? Obviously the challenge would be if there's no agreement in the industry of what that structure should be, it would make it a bit difficult for the government to put one in. Have you got any answers to those questions?

**MR SHERIDAN (VFF):** I think there was some consensus in the report itself, where there are some potential public-good services there, whether it be trade advocacy or market promotions or others that may warrant government funding. In addition to that, there is no doubt grower funding that could go towards that, whether it be the wheat export levy or similar systems done through GRDC where they use grower and levy funds for Dairy Australia as a similar function. So I don't think the industry expects government to provide the solution, nor should government expect the industry, which is very fragmented at the moment, having just gone through deregulation, to come to the government and provide a consensus opinion, because we're obviously struggling to get that consensus opinion. I think there needs to be work together and I guess that's why we were asking the commission and saying to the commission that we would hope that in considering your draft, you would look at industry structure and legislation. That was one of the objectives of the Wheat Marketing Act, that there is similar legislation and regulation, and no doubt it is one thing you're meant to look at yourselves.

We think the industry and government should work together. We agree with you, that there is no consensus in the industry at the moment but we don't see why we can't put together a structure and get it embodied within legislation where that's required. I'm not suggesting everything needs to be embodied in legislation; just if there is, as you said, a public-good authority that needs some funding, then so be it.

**DR CRAIK:** Okay. Have you got any more questions on that general issue?

**MS MacRAE:** Could I just skip back a little bit. We just missed a little section that you had on marketing and pricing management. There was a statement there about the lack of transparency in pricing, combined with a lack of other regulatory protections due to exemptions from the Corporations Act, is another justification for a body. Were you referring there to pools, just pools? I just wanted to understand what the nature of the concern was there.

**MR SHERIDAN (VFF):** Yes, that was just picking up some comments from the report itself where you were talking about pools. I think our general concern on behalf of growers is that having moved into this deregulated market, whilst there might be regulatory protections in other markets, financial markets or whatever, some of those regulatory protections don't exist, even within pooling. It may not be the predominant form of marketing for growers but it is still for a number.

**MS MacRAE:** Yes.

**MR SHERIDAN (VFF):** Now, as I've said there, we're not advocating that ASIC remove those exemptions but we were agreeing with you that that is an example where there aren't regulatory protections in the market.

**MS MacRAE:** Okay. I just wanted to make sure this didn't say "pools". I thought maybe there was some other issue that we hadn't identified, so that's fine.

**MR SHERIDAN (VFF):** No.

**DR CRAIK:** GTA, as I understand it, have in their code of conduct a section on pools and like guidelines that they see as desirable around pools. Do you think that GTA is an appropriate body to take an industry role in promoting guidelines around pools?

**MR AMERY (VFF):** Yes, for sure. They definitely do have a role. It would be nice to see that there were some more growers around their table or grower representatives around their table to present when they formulate those things, but yes, they definitely do have a role to play in that space and to consult in for the broader industry to come up with a code of conduct that is workable and applicable across the whole of the industry.

**DR CRAIK:** Okay.

**MS MacRAE:** If I could have just one more question. The Single Visions project, if I understand you correctly, that was kind of something that seemed to take on the sort of role maybe that you were looking at, as sort of a similar kind of body, if that's what I can call it, that you might be looking for and calling for here. So I guess I was just interested in whether you had any views about that as a model. It had government funding for a couple of years and then once the government funding was withdrawn, it fell over, but maybe for other reasons. But do I understand it correctly, because I still don't feel I've quite got a really good handle on what sort of legislative amendments might be required. Is it sort of getting a structure for the industry to move forward and work out an industry-wide plan for the future? Is that the sort of thing that you're looking for?

**DR CRAIK:** Or are you looking for amendments to something like GRDC to be more like - - -

**MR SHERIDAN (VFF):** I wouldn't want to pigeonhole either of those because trying to get a Single Vision out of this industry, it might just be a big ask. I think it's along the lines of what is an appropriate industry structure. Obviously we have the GTA representing trade and exporters, and we have a number of small-farm representative organisations and currently an export regulator, if you like. But were your recommendations to go through as is and the removal of WEA, we feel that there would be a distinct lack of regulation, there would be potentially an under-representation of growers with, as Russell said earlier, GCA potentially floundering, so it is the need for, if you like, a national grower representative body and/or the need for some independent regulations in the industry, at least in the

transition period. So it may be a transitioning from a WEA-like body through to - whether it be something like the GPA and any enabling legislation that is required for that process and funding that's required for that process, so that long term, in a more competitive environment, you would still have some representation for growers, an independent ombudsman, if you like, someone to carry on the industry-good functions, so some of those gaps that have been identified. But I wouldn't like to use the Single Vision because, to me, that was possibly a little too vague, and trying to achieve consensus would be very difficult.

**DR CRAIK:** We might move on and ask some questions about access regimes. As I understand your submission, you're concerned about moving to voluntary undertakings or just relying on Part IIIA of the Trade Practices Act. In our draft report, our recommendation was that the access undertaking should remain in place till 2014, so that's basically a five-year period from when they were put in place. What would make the conditions right, in your view, for moving from access undertakings to relying on IIIA and voluntary undertakings, plus the publication of the shipping stem and port access protocols which was part of what we recommended? I guess my question would be did you have a time period in mind or certain conditions in the industry that would be a signal that you could move in direction or do you have a view about that?

**MR AMERY (VFF):** I suppose, to answer that, Wendy, nothing has really changed from our initial submission. We were concerned that while section IVA of the Trade Practices Act do what is required, it takes too long to do things. To put the wheels in motion and get things to happen in our industry, it appears to be too big and cumbersome. We wanted something, because of the nature of our industry, that if somebody has a complaint, an exporter, grower, whatever, the complaint can be heard very quickly and the issue can be resolved, rather than have to go through the other process. The way that is at the moment, exporters, if they've got a complaint, they say, "Well, if I make a complaint, how long is it going to take? Is it going to be worth it?" We were of the opinion that they would just throw their hands in the air and say, "Why bother?"

**DR CRAIK:** Too hard.

**MR AMERY (VFF):** Yes, too hard. That's probably our greatest concern. If something could be done in the meantime - and we appreciate the five years you've given is there - but to rely on that other undertaking, I think it's, as I said, too cumbersome. You can't act quickly enough.

**DR CRAIK:** So would you say even after the five years, it's five years of having the access undertakings, that you would need a longer period than that?

**MR SHERIDAN (VFF):** If I may - - -

**DR CRAIK:** I mean, if you have a view on it; you might not.

**MR SHERIDAN (VFF):** - - - I think it's one of those things that you'd have to wait and see. I'd hate to make a recommendation now, not knowing what the future may hold. It may be a case of review it again in five years and see if there has actually been further investment in the industry. But I agree with Russell, those existing provisions or to rely on Trade Practices or whatever might be a disincentive in itself if it's perceived to be too expensive, too slow, too legalistic.

**DR CRAIK:** The link between accreditation of the bulk exports and their actual accreditation to export bulk wheat and the access undertakings, is that important in your view, that if the bulk handlers don't have the access undertakings in place and they can't get accreditation for their actual export, so the potential removal of accreditation to export, is that an important kind of sanction, I suppose, as it were, on the bulk handlers here? I mean, is the linkage important?

**MR AMERY (VFF):** I think it is. I believe it is important, to make sure that there is a clear signal to those that export wheat that if they own the facilities, others in the industry can't be held to ransom because they don't own facilities. The facilities, although they are expensive to build - and as we point out, the likelihood of anybody else building any facilities is fairly minimal - so yes, having those who actually own the facilities and the up-country infrastructure - and with that goes the information, where grain is, what quality, where it's stored - yes, need that access undertaking.

**MS MacRAE:** You talk about the limited ability of potential competitors and investors to go round the existing providers, do you see that limited ability primarily as a financial issue or is there any other regulation or government-imposed kind of problems that are creating problems in trying to get round the existing facilities?

**MR AMERY (VFF):** I think it's financial because of our inability, as I said, to build another port terminal and to have it utilised to the extent where it would be profitable.

**DR CRAIK:** What about through the supply chain, getting the wheat to port sort of independently of the existing bulk handlers, are there barriers to doing that?

**MR SHERIDAN (VFF):** I would have thought if rail - when you start to talk about bulk tonnage in each state, and the capital-intensive nature of rail is going to be a problem for anyone trying to enter that market, so I would have thought the capital investment which Simon referred to earlier is the biggest disincentive for new entrants to that market and hence the need for some sort of access regime, especially if you've got, as you acknowledge yourselves in the report, three big players in the industry controlling east, west and south, and it is hard to go around if you're not

only looking at building new terminals but getting rail access to that new terminal et cetera. Yes, that would be our concern. So from a grower perspective, it's about achieving an efficient, competitive environment. Without that, our concern would be it's the growers that would bear the cost in the interim.

**DR CRAIK:** Do many growers deliver directly to GrainCorp terminals?

**MR AMERY (VFF):** It's increasing. As Simon said here before, especially over the last few years, increased on-farm storage, and the freeing up of those port operators is now beginning to allow grain to come in at different times of the year, so it is something that is increasing. It's not easy to do, but, yes.

**MR SHERIDAN (VFF):** I would also add that depending on the state, there's more road access in some states than others, but when you're talking 20 million tonnes of wheat, there's really only a certain amount that you're going to be able to readily move by road. The vast majority is still going to go by rail, I would have thought, especially in the short term.

**DR CRAIK:** What about Victoria? Is much delivered to GrainCorp by farmers in Victoria?

**MR AMERY (VFF):** You would have to ask them. A lot of it depends on their ability to be able to store and bulk up for a shipment, what sort of capacity they've got if they need to do that in a very timely time frame. They may not have the capability to allow too many trucks. They may need to get it in rail where they can do it cheaply, efficiently, if they have got a longer time frame or the storage capacity that they can use to bulk up for a shipment. Each site would be totally different and their shipping standard depends - I mean, they may be able to do more later in the year when there's not many ships, but in the early part of the year when everybody wants ships, that may - - -

**DR CRAIK:** It's going to be more difficult.

**MR AMERY (VFF):** Yes.

**DR CRAIK:** Do you want to talk about information? We've got some words here on information and the importance of publishing information and suggesting that exporters and bulk-handling companies should be mandated to publish and provide export data, shipping stem data and stocks data to an independent grains industry body. I guess the question would be who pays for that, and presumably this is over and above the sort of information that ABS collects, but I guess the question would be, who pays for any additional information? Are you suggesting that there would need to be a legislative basis for publishing that, so that it actually was compulsory, because if ABS does it, then people do have to provide the data because they have

that legislative basis for doing it.

**MR SHERIDAN (VFF):** I think we were just acknowledging one of the draft's findings, that there is a perceived need out there for timely and accurate information. Simon spoke about ABARE and ABS data not being timely and therefore its relevance comes into question. If you want an efficient, transparent marketplace, then we'd assume you would want that sort of information reasonably readily available. A lot of that sort of shipping stem and stocks information, exporters should have on hand or readily available on hand. There's no reason they couldn't be providing it to the industry regulator or the industry-good body. They may need enabling legislation, as does ABS, and there's no reason why that body couldn't then be passing the information on to ABS or ABARE. So it was just trying to acknowledge that point, that it is perceived to be from our view relevant to a transparent market. Can you speed it up and make it more efficient?

**DR CRAIK:** Who would pay? At the end of the day, if there's a cost on the industry, it will trickle back to - - -

**MR AMERY (VFF):** Ultimately it comes back to us.

**MR SHERIDAN (VFF):** Yes, I would think there would be some costs borne by the storage and handling providers providing information and some costs borne by the regulator or industry-good body that's collecting or collating the information, but I wouldn't have thought that is a significant cost if they're providing existing stocks information. They have their own inventory systems, their own shipping stem systems. Yes, there might be administrative costs there but I wouldn't have thought it was significant.

**MR AMERY (VFF):** We probably would need to point out that we're not necessarily asking for a site-by-site analysis of where stocks are, but rather what's in a regional and what's in a port zone, because you don't necessarily need to know where every grain of wheat is, as long as you know what's in the shipping stem and what is available.

**DR CRAIK:** US Wheat Associates has a very detailed data collection and dissemination arrangement but they are very substantially funded by government to do that and the Australian government, I guess, doesn't have a record of funding industry bodies to a large extent to provide data like this. So I guess the question would be would you be seeking government funding to facilitate this?

**MR AMERY (VFF):** If we could get it off the ground and we needed to do it. In the change to this system, maybe it's something the government needs to look at. It may have a responsibility in this area.

**MS MacRAE:** Just to be clear about who you think would benefit from the information, are you really looking at - I mean, I guess in our report, we differentiated between two kinds of information, so the ABS data and the other stuff, the basic set information, about looking at the sort of history and geography of the industry as a whole. I'm not sure you're not disagreeing that we should still have that. But in terms of the benefit of additional information in relation to where the market is, we did look in a great deal of detail, I have to say, at what might be required, and I guess from our point of view, our starting point was what's currently available and what is additional to that that would allow the market to operate effectively, without requiring people that have got information that they hold, proprietary information, compelling that to be divulged where they have effectively paid a price for that by investing in a particular corporate structure or whatever. So where we got to was that there would be some additional information but it's really what the ABS is currently providing because the traders were telling us that what was really important to them was to have the stocks by state. As long as they had that information, a lot of the other information could be inferred, and I guess Simon made the point that other information can be bought, where you need to know it as well.

We were trying to draw that line between what's sort of essential information and what's nice to have information, but not really a need to know to make the market effective. I take it from your submission that you're saying you felt we've drawn that line a bit high and that we need to come lower. But if this data is sort of made available to everybody - at the moment, people are looking for arbitrage opportunities and it's knowing what someone else doesn't know that gives you an advantage. Once you make that available to everybody and that's at a cost is that you've then kind of levelled that information and I guess what I'm trying to say is do you see different sort of arbitrage opportunities or benefits for growers in having a wider range of information available than is current available, given that many will use a trader and not market their own wheat directly, and even where they do so, I imagine that your bush telegraph works pretty well in terms of if there's a major weather event or any of those things, you're going to know about those things and you will know whether it's a good year or a bad year in your region.

I guess I'm really just trying to get to the heart of what's the benefit, who's benefiting from this information and how much benefit is likely to be involved, given that in looking at this, we then also found there are quite a lot of complexities in gathering some of this data, even though it looks like it should be pretty easy because they collect it anyway, don't they, it's not quite as easy as that. So I just wondered if you wanted to elaborate any more in terms of how you see the benefits for growers out of this.

**MR SHERIDAN (VFF):** When we were looking at it, I think mainly we were coming from the angle of what's required for an efficient market, so it may well be



more a question for exporters. Do they require more timely shipping stem information, stocks information, et cetera? You've asked where we've drawn the line. I haven't and I'm not sure if Russell has in our own mind where we draw the line between proprietary and non-proprietary information, but - - -

**MS MacRAE:** For example, we wouldn't be proposing that we would be going down to a port zone, the requirement to release port zone data every month.

**DR CRAIK:** By week, variety.

**MS MacRAE:** By week, yes.

**MR SHERIDAN (VFF):** It may be along those lines, it may be for different types of information that has different timeliness, so shipping standards similar to - currently I think it's a weekly basis - - -

**DR CRAIK:** I think it's daily, the shipping stem, updated daily.

**MR SHERIDAN (VFF):** - - - or daily, so it may be more detailed or existing shipping stem information on a daily basis. Other information may not be required as timely but certainly not the time lags that occur in ABS or ABARE. I'm not sure I've got a specific answer to your question.

**MR AMERY (VFF):** I think as was mentioned with the previous speaker, the ABARE and ABS data is often - - -

**DR CRAIK:** Three to six weeks - - -

**MR AMERY (VFF):** Yes, and that's probably the greatest concern - - -

**DR CRAIK:** The timeliness of it.

**MR AMERY (VFF):** - - - while the information is there, once you've got the information, it's not much good to you.

**DR CRAIK:** It's dated.

**MR AMERY (VFF):** Yes.

**MS MacRAE:** Yes, not day to day - - -

**MR AMERY (VFF):** Yes.

**MR SHERIDAN (VFF):** I would add to that, I suppose, if a company is holding

stocks and inventory information because it's a bulk-handling authority, it raises the question, is the information proprietary to that company as opposed to its trading arm particularly, so if it's making that sort of information available to the wider market similar to any other exchange, is it going to lead to a more efficient marketplace down the track for all concerned, exporters, traders and ultimately growers? So I guess we pose that question ourselves. But again, it may be more a question for the exporters and traders.

**DR CRAIK:** I think the traders would say yes. Unless there's anything else that you would like to say that we haven't covered, if there's anything we have omitted that you want to make a point about - - -

**MR AMERY (VFF):** No, I think we have covered our bases, so thanks very much.

**DR CRAIK:** Thanks very much, Russell, and thanks very much, Stephen, for coming in.

**MS MacRAE:** Thank you.

**MR SHERIDAN (VFF):** Thanks for the opportunity.

**DR CRAIK:** Thanks a lot. We are running remarkably ahead of time. We might have an adjournment then and wait until the AWB arrive. If they're here at about a quarter to 12, we might start at a quarter to 12, otherwise we will start at midday. So we will adjourn for half an hour. Thanks very much.

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**DR CRAIK:** Welcome back to the inquiry on the draft report into wheat export marketing arrangements and now we have AWB. I wonder if you could start off by saying who you are and your organisation for the record and then if you've got a few opening remarks, we would welcome those. We have quite a few questions on your submissions, so I guess if your opening remarks could be kept reasonably brief, that would be really good.

**MR MORRISON (AWB):** That's fine, no problem.

**DR CRAIK:** I guess I would just comment that we appreciate your detailed submission but we probably haven't had as much time as we'd have liked to have read it all, so we may wish to meet with you subsequently as well.

**MR MORRISON (AWB):** That's fine.

**DR CRAIK:** Okay. Over to you.

**MR MORRISON (AWB):** Yes, certainly. For the record, my name is Mitchell Morrison. I'm the general manager of commodities, AWB Ltd. My responsibility is for all the trading activity, the storage and handling activity and the grain acquisition activity across Australia and our interests offshore. Yes, we certainly appreciate the opportunity to make a subsequent submission following up the draft report.

Probably our opening comment which I think we made was I think that the commission has rightly identified that industry is still in a fairly significant phase of the transition. There's still a great deal of maturity the industry needs to travel through before we could say we've moved out of the early years. I think the Productivity Commission has identified most of those areas where we still have work to do.

I guess the key points that we would raise as concerns I suppose about the draft report, and I'm sure we're not alone in this, is the issue in relation to the allocation of capacity within bulk handlers' port facilities. The interpretation the commission has made is a cause of a great deal of concern to AWB which is very much that issue about whether bulk handlers have the right preferentially to allocate shipping slots to their own trading arms over and above those of other participants in the industry. Certainly our interpretation of what the minister said and the reading of the act was that we were looking and hoping for an approach, I suppose, that allowed their participation from all accredited exporters. That's probably our major cause of concern.

We've also made a reference in our submission to concerns about the auction process more broadly. While we're supportive of an independent allocation of that auction slot in not only Western Australia but in other ports as well, we would like to

see a uniform approach taken nationally. We think the industry bodies are there in place to provide an independent oversight for a process, and an auction may be the appropriate mechanism to do that, but we'd like to see some tightening up of the rules that, say, in Western Australia apply, that CBH apply, and we'd like to see perhaps the other port terminal operators adopt a similar approach, which would be useful, and I think that's part of this issue of the maturity of the industry.

We've subsequently made comments about Grain Express and I think, like the commission identified, while the ACCC didn't allow that mechanism to be put in place, AWB's position is unlikely to be sustainable and I think without foreshadowing too much, there is likely to be competition for transport in the Western Australia sector which would necessitate an unwinding of the Grain Express undertakings that CBH have made.

I think probably the other key point that we've sort of made and we've been quite vocal in the community recently is about issues to do with wheat quality and I think our submission sort of makes the point that the industry is moving down a path which will address a lot of those issues and we're pretty comfortable that - again that's part of the maturity process we're going through - there are the mechanisms there for essentially a self-regulatory approach to be adopted. So I guess we come back to that first point, but there are still a lot of things which are shaking out in the industry; those are probably three areas of significant concern at the moment. Some are further along in terms of being sorted out, but the key point I think we have concerns about is this issue about spare capacity allocation versus fair access.

**DR CRAIK:** Okay. Would you like to identify yourself please for the record.

**MR McBRIDE (AWB):** Peter McBride, general manager corporate affairs, AWB.

**DR CRAIK:** Okay, thanks. Peter, did you want to make any additional comments?

**MR McBRIDE (AWB):** No.

**DR CRAIK:** Thank you. Before we get into those issues that you raised, Mitch, one of the issues that growers keep raising with us is the issue of Golden Rewards and that Golden Rewards - you know, rewarded them for quality and they got a lot more under Golden Rewards and now they don't.

**MR MORRISON (AWB):** Yes.

**DR CRAIK:** We've had a recent submission which I suppose spells it out quite specifically where someone says his wheat this year was 14 to 16 per cent protein but he could only get paid, when he sold, for 11 and a half per cent. He believed he was being penalised.

**MR MORRISON (AWB):** Penalised as a result.

**DR CRAIK:** Now, we understand that some pools offer increments for higher protein. I guess the question is: do the other purchasing arrangements offer similar, and why is it that Golden Rewards is seen by the farm sector as such a great thing but not being there now, even though there are some sort of arrangements in place which seem to in a way be similar to Golden Rewards?

**MR MORRISON (AWB):** It's a very good question and we've had that question a lot. Just to look at our history, obviously under the single-desk arrangements, where there was essentially one export seller who had access to 80 per cent of the production which was going to an export channel, there was a mechanism by which that manager could essentially send very clear signals on quality, whether that's protein screens or moisture, because they essentially took the risk of the total crop quality that was going to the export channel.

Obviously when you introduce, say, 30-plus competitors and rules in which the bulk handlers will only guarantee a minimum quality which is equivalent to receipt standard, it means that as the grain now comes into the system, it all gets co-mingled, so a particular farmer may have very good quality, but it sounds like it's hard wheat, because the payment he received was for 11 and a half. That hard wheat may get mixed into a stack with a whole heap of other farmers' hard wheat, and under the minimum guarantee rules set out in the storage and handling agreement set out by the bulk handlers, they will only guarantee, through out-turn, 11 and a half per cent protein. So the individual specifications of that particular farmer's grain get lost and so it's very hard then as a buyer to essentially pay the 13 per cent when the bulk handler is saying, "We're only going to guarantee you 11 and a half per cent."

So when the buyer - and the trading companies as we are - are making a representation to a customer offshore, then unless we have a very high level of comfort about the average stack, so the minimum might be 11 and a half but the actual stack might be recorded at, say, 12 and a half, we're still taking a risk that if the out-turn is only 11.8 and we've sold at 12 and a half, that we've got no ability essentially to cover the claims that we will receive from the buyers and that fundamentally is the reason why Golden Rewards has become a far riskier proposition. Yes, some players in the marketplace are offering that. They're taking a significant risk, albeit Golden Rewards at the end of the day is a mechanism which is managed over time such that there's an average return pay through Golden Rewards and an averaging of the quality, but individual growers are paid a specific scale, so under the old rules, if you delivered 12 and a half per cent, AWB would basically identify the premium for a 12 and a half per cent relative to 12.4, and would try to achieve the premium, reflecting the quality that has been produced because it controlled how that grain was sold, so it could ensure that if it was going to sell

12 per cent to a customer, it can find the stacks, where it was comfortable, that occurred cheaper.

Today, because of the way the risk is now distributed across the sector and the way that receival standards become the out-turn standard, it increases the risk to the provision of a Golden Rewards service. Smaller players who are quite localised-specific or had their own supply chain, which very few have, may be able to run that system, but over time essentially what you would find would be premium payments which would be nowhere near as graduated as they were in the national pool. But the reason growers like Golden Rewards is because it takes away essentially the cliff faces that occur when, if you achieve a minimum receival standard, you're only going to get paid for the minimum receival standard essentially and you could potentially fall from a prime hard receival standard of 13 to a hard wheat minimum receival standard of 11.5. So you're being penalised quite significantly in terms of your protein.

So it's certainly an issue which I think competition will create, as it already has done, people who are prepared to offer a Golden Rewards system. It's a much higher risk offering today than it was under the single desk where it was essentially one buyer sending those pricing signals. So I think the evolution will be essentially through new supply chains where the quality can be preserved and not lost in co-mingling, where you're likely to see more and more of that payment for quality capacity being preserved.

**DR CRAIK:** So you think we will start seeing more of that?

**MR MORRISON (AWB):** I think there are certainly endeavours, and we are aware of one bulk handler at least who is now starting to talk about it, having committed to doing it, talk about guaranteeing the quality going in and coming out. So basically if AWB says, "We bought 12 and a half per cent grain," at a certain site, "and our ownership of all the grain we own in that particular stack averages 12.5," then the bulk handler is saying, "We will, best endeavours, deliver you 12.5," on that hard wheat stack, rather than today, their minimum requirement by law would be 11 and a half. So I think there will be pressure and part of it is grower pressure and certainly from our point of view, because we could represent that grain to the customer as meeting their needs more accurately if we could be comfortable to sell 12.5, then the bulk handler would be happy to stand behind 12.5.

But that also brings us to another concern that we have had in our negotiations with bulk handlers and continue to have, this issue about the limitation of liability and certainly out-turning incorrect grain quality is a big issue, but our ability to have recourse to the bulk handler who essentially is the custodian of that grain from point of entry to out-turn is limited by these liability caps. They vary according to bulk handling but are certainly well below what we believe is a commercial responsibility,

what is fair and reasonable from a commercial point of view for responsibility for that custodian ship, such that if we did incur an issue where we sold 12 per cent protein and 11 and a half is out-turned, and our customer came back with a quality claim - say it was a big vessel, a Panamax vessel - of a million or a million and a half dollars, we are limited in our ability of recourse to the bulk handler. In most cases, the highest I am aware of is half a million dollars per event. So again, even though we had no control of the grain quality that was in that bulk handler, and even if a bulk handler represented to us that they could achieve that 12.5 but their minimum guarantee of receival standard was 11.5, if we went ahead and put that sale on and it didn't meet the 12 per cent, let's say, we're up for a million and a half dollar penalty. Our ability to recourse is half a million back to the bulk handler. So there's a huge risk there, and that is undermining the ability of the trade to more aggressively seek out higher protein wheat sales, for example, which does come at a cost to the grower in particular.

**DR CRAIK:** As I understand it, it was either your submission or AGEA's submission which suggested that at least one of the bulk handlers was talking about referring those issues to its insurer, the limited liability - - -

**MR MORRISON (AWB):** Yes, I think it was Viterra in their first submission did identify that there's an insurance market, and there is an insurance market. In the past, my understanding of the single-desk days was that all the bulk handlers, plus AWB, essentially joined together to in many instances secure some underwriting for it.

**DR CRAIK:** Okay.

**MR MORRISON (AWB):** Now, that's obviously not happening because essentially the market is deregulated. Yes, it comes at an expense, but it gives certainty. My firm belief is all bulk handlers are trying to do the very best thing possible, but it's in those instances where they don't meet the mark that essentially leaves the trader exposed and basically means that the traders are less willing to guarantee anything better than receival standards when they sell to the marketplace.

**DR CRAIK:** Okay, that's helpful.

**MS MacRAE:** Do you think that's partly a transitional problem? I guess what you've said already is that maybe there's insurance options that people are looking at. Is it likely to be able to be resolved, do you think, without intervention of some sort?

**MR MORRISON (AWB):** I think the safest way to do it is competition in the current environment, essentially new storage and handling facilities and new ports, but there's a big issue with that which is the issue of overcapacity, in that there's sufficient capacity at ports in Australia to do the task today, so there's not a huge

incentive for new ports to be developed and there's certainly a substantial increase in up-country storage occurring with the on-farm storage issue. So the question is: how is competition going to force the bulk handlers to start to take essentially more responsibility and also be prepared to stand behind their offering and essentially the consequences of non-performance? I think insurance would be great but I'm sure the bulk handlers are saying, "Well, it's going to be expensive," but I think from a customer's point of view, as a customer of a bulk handler, I'd rather see that cost being spread across the whole industry through an insurance mechanism than the bulk handler simply saying, "No, we're not going to wear that risk, that's all your risk," when they control the management of all the grain physically.

**DR CRAIK:** But you do see that being resolved over time?

**MR MORRISON (AWB):** Look, I think it's consistently the one issue, the liability cap issue, we're having with all bulk handlers. I think GrainCorp did, in their most recent storage and handling agreement with AWB, lift their threshold. It's still at least half a million dollars. It's still well below the potential risk that we face. So I think there's modest improvement, but in my understanding, Western Australia and South Australia, there's no inclination for bulk handlers to change, and without competition there's no real threat, unless you go down to a regulatory path which is not ideal, but if that's what is required, that's what's required.

**DR CRAIK:** Okay. Moving on to the issues that you raised, and thanks for all your information on pools and things - that was quite helpful and gave us some good background on that - do those exemptions to AWB still apply?

**MR MORRISON (AWB):** They do, yes.

**DR CRAIK:** The specific ones I mean to the AWB.

**MR MORRISON (AWB):** That's right. The four specific ones do apply. I guess we haven't sought to reconfirm them since deregulation.

**DR CRAIK:** Because ASIC did put out a general policy I think in 2007.

**MR MORRISON (AWB):** That's right, yes. They still do apply to AWB.

**DR CRAIK:** Okay, thanks. Moving on to the more specific issues, in terms of - just going through your submission - the issues of quality control, and you've raised some quite detailed issues of things that have happened, I guess the fundamental question is: do you think there's more of these quality issues occurring since deregulation compared with under a single desk?

**MR MORRISON (AWB):** I think the first point to note is that there were issues



with quality under the single desk. They are unavoidable, but you won't ever eradicate them completely. Oftentimes a quality issue can be more of a commercial tactic on behalf of the buyer who may decide that they don't actually want the quality or the price at which they pay for the grain, but there are certainly examples that we're aware of where there have been some quite damaging misrepresentations of quality and I think that has largely come out of the container sector. But we're also aware of a number of instances where customers have rejected bulk shipments as well because they haven't met the quality criteria. Ultimately they usually end up in a renegotiation of price but it creates a great deal of frustration for the buyers because they generally then have to blend the cargo on, say, a 65,000-tonne vessel. Rather than being able to use it over a two-month period, they have to blend that into the next two or three vessels over a six-month period, paying up for the storage space at their facilities. So there's a real cost and then there's also a perception of an opportunity cost, damaging the reputation of the industry.

I suppose there's more visibility in the industry now about those examples occurring because of the competitive pressures, the trader out there looking for opportunities. They're talking to more customers, customers are providing feedback and, prior to deregulation, there weren't other sellers of Australian wheat out there looking for the opportunity. So having said that, while I didn't work under the single-desk system with AWB directly in the area of looking after export shipments, my view is there's certainly been a lot of instances in the last year and a half.

The other thing we do have to bear in consideration is that there were specific quality issues associated with the drought years and in particular a lot of high protein, high screenings wheat produced on the east coast and that has been blended quite aggressively into better quality milling wheat and that has also created some significant problems in certain marketplaces.

Additionally, we're also aware on the west coast of noodle wheat varieties being blended into milling wheat varieties and again, that wheat is not going to perform for a baker, as their expectation would. It's very hard to tell, because visually you can't tell what's a noodle wheat variety versus a bread wheat variety and it may, on a contractual basis, meet the minimum specifications, but when it actually gets processed in a flour mill, noodle wheat just won't perform like bread wheat varieties. Again, that will lead to an expectation, or a disappointment on behalf of the customer, that Australian wheat is not performing the way it has historically because, to put it, there's more injudicious blending of varieties going on.

**DR CRAIK:** So where's this injudicious blending occur?

**MR MORRISON (AWB):** It largely occurs at port. It may be that it's the seller rather than the bulk handler that's happy with that blending, so I'm not necessarily saying it's completely a bulk handler issue, but there needs to be, in our view, for the

long-term value being preserved for the industry, greater care taken about how blending occurs at ports and a recognition that ultimately the customer satisfaction will dictate whether they're going to be a repeat buyer. If we continue to erode the quality in that way, then we should expect that Australian wheat will be ranked alongside Black Sea or Kazakh wheat, rather than being ranked alongside Canadian and US wheat in terms of its consistency and performance.

**DR CRAIK:** So do you think that's another issue that the market will sort out?

**MR MORRISON (AWB):** The market will sort it out from the perspective that a customer may not deal with that particular trading house again and that gives other trading houses or sellers an opportunity, but because the way the market is evolving is most customers now have multiple suppliers, they might drop one supplier who disappoints them, but they will also look at Australia and say, "Well, I still run a risk that this is going to occur with other suppliers and the premium I once paid for Australian wheat actually is no longer. Because of that risk, then perhaps I should look at the price spread between Australian wheat and Kazakh wheat or Ukrainian wheat and say the consistency is no different in that part of the world to what it is in Australia, so we won't pay the premium for Australian wheat that we used to." That's the risk that we're concerned about.

**DR CRAIK:** So is there a solution?

**MR MORRISON (AWB):** Again I think self-regulation is preferable and we've been pretty consistently talking in various forums about the need for some independent analysis. This happens quite a lot in other parts of the world where an independent insurance company will attest that the quality does meet the specifications. But the specifications at the moment are really only five, and five largely physical characteristics which are tested. As I said, you can't tell noodle wheat from bread wheat usually by visual inspection, so you need greater levels of testing done which takes time, comes at a cost. So ideally if we can regulate and ensure that we don't blend noodle wheat with milling wheat or we don't blend AH9 with prime hard and call it prime hard, then you avoid that issue, but it requires a great deal of uniform self-regulation across the industry to ensure that doesn't happen.

**DR CRAIK:** Can't the seller get the wheat tested?

**MR MORRISON (AWB):** They can. There are supermarkets where that happens but again it comes at a cost and rather than the Egyptian inspectors requiring inspection for every Egyptian cargo and the Thai inspectors requiring testing of every Thai cargo, the solution may be that the industry just says, "We will employ an approach where all markets" - you know, for the various market requirements of every market, one commercial provider is contracted by the industry provider. That's

one solution. It comes at an additional cost but it may be better than seeing the relative value of the Australian wheat dropping compared to other alternatives.

**DR CRAIK:** Okay.

**MS MacRAE:** So with your view about quality then and the way that the market currently is operating, would you say that it's more - I mean, it sounds like it's deliberate blending. It's not an inadvertent, "Well, we just fell below the 11.5 protein because we thought that's what we had and it's just fallen outside that range." What you see is deliberate, inappropriate blending.

**MR MORRISON (AWB):** Yes. I think there has been - there are always going to be instances, and this happens from time to time, where usually most of the industry here, the vast majority of the industry, sells quality final at low port, because quality final at dest port is a big risk if you don't meet the hurdle obviously, and there will always be times where, let's say in durum cargo, the vitreousness may be running right up to the minimum specification, but final tests at low port and you sold quality final at low port, and by the time it gets to Italy, they test it and it's slightly below the minimum specification. Now, that's usually territory where you just have a pay-out, a discount, but they're happy to still use the wheat. Those issues will always occur going forward and that's a matter of judgment on behalf of the commercial participants, but it's where we're getting, as I said, this injudicious blending of two vastly different qualities to meet a specification. Again, while on the minimum specification of test weights, proteins, moisture and screenings, it works, but actually how it performs in the flour mill, it bears no representation to the expectation of the customer, so that's the big issue.

**MS MacRAE:** Is there a way of sort of reflecting that in a code of conduct or something that you could have?

**MR MORRISON (AWB):** I think the GTA certainly could strengthen that up and I think that's part of what the debate is about, how we could do that, you know, falling short of then needing to go down a path where we have - we employ as an industry - decide whether we're going to pay certain costs to have that test done, so it can be done commercially. It can be sorted out commercially but there's a great temptation because of the price spreads. If you can buy AH9 at \$180 a tonne and you can buy a prime hard at \$290 a tonne, and you can blend quite a bit of this to make this, then there's a huge incentive to do that and pick up the \$110 a tonne premium.

**DR CRAIK:** Okay. We might move on to access issues. One of the issues you raise -and the Productivity Commission recommended that access undertakings remain in place till 2014 but remove the requirement for accreditation in 2011 - your take on access undertakings is that they should remain in place with the link to accreditation till September 2011 which is what we've said, but after that, the ACCC

should review the undertakings on an annual basis to ensure fair conditions are being proposed. So I guess the question is: do you have a view on how long the access undertakings should remain in place? Our recommendation was that the link to accreditation should disappear after 2011 and some other sanction in place.

**MR MORRISON (AWB):** Yes, I think - and we debated this quite widely - the most important point to ask is that the fair access works and so again we were somewhat concerned about the issue about how access or how capacity should be allocated and whether that was going to create fair access or essentially two classes of access. So from that point of view I guess our response was a little coloured by that position in that it's too early - given that AWB, for example, has not yet finalised port access protocols with two of the three bulk handling companies - for us to determine how over a reasonable period of time those are going to work. It's really only been six months that we've had to operate under this system, as in we still don't have two agreements in place.

So our concern is that it certainly needs a lot more time to work its way through, that access needs to be - there does need to be some oversight as to whether the system is working properly - the ACCC may have used the body to do that - recognise that losing accreditation is a very significant penalty and whether there are other ideas about what is more appropriate in terms of those sanctions, whether they should be financial penalties or whatever but it certainly needs to be a considerable penalty capable of being applied given that essentially the risk is that a competitor of AWB's is able to operate in such a way to be at the detriment of AWB and we would like to think that there is a pretty tough penalty is in there.

**DR CRAIK:** Would you envisage a time though when access undertakings would not be required? Could you envisage a time?

**MR MORRISON (AWB):** I think if we had more confidence around issues such recourse on liability and a fair market value has been paid in instances where it's proven that a bulk handler basically didn't do what they were contracted to do, then we would probably feel that - and we had a robust independent mechanism to allocate capacity, then we could certainly get a hell of a lot more comfortable around access undertakings. But, again, I think there's an evolution that needs to occur there and preferably a uniform adoption of the set rules.

**DR CRAIK:** You mention that you've only completed one negotiation regarding port access protocols but you're still going on the other two.

**MR MORRISON (AWB):** Yes.

**DR CRAIK:** So have you been negotiating all year with all three of them?

**MR MORRISON (AWB):** Yes.

**DR CRAIK:** For a whole year?

**MR MORRISON (AWB):** AWB's experience of bulk handlers we tend to negotiate 365 days of the year. Since essentially 1 October, let's say, when those undertakings were - well, the ACCC gave the BHCs the green light, then there was a period at which obviously the port access protocols had to be negotiated in good faith. We have an agreement in place with GrainCorp. We are yet to have an agreement finalised with Viterra or CBH. So we would hope then in the not too distant future we'll get there but these negotiations are robust which is normal. The key issue for us the liability caps and I think as we made clear in our submission, we wouldn't want to see bulk handlers hiding behind liability caps.

**MS MacRAE:** You might be able to say, but is the fact that the GrainCorp sites are generally in a more competitive market likely to have made that easier for you? Is that the one you're expecting to get agreed first because it is a more competitive environment they're operating in?

**MR MORRISON (AWB):** I think that it would be fair to say that there is more pressure on GrainCorp and they look in their backyard and see there's MPT, there's out of harbour which is drawing grain out of the Victorian catchment area and there's soon to be a competitor in Brisbane and they're seeing a more lot more competitive pressure at the port than is occurring in any other state. That is obviously part of their motivation. I think they would like to demonstrate good faith to ACCC that they're doing their very best. There was certainly a flurry of activity probably a month and a half ago because they set a deadline which I think was the end of February to try and achieve that outcome which makes a lot of sense, but they had a lot of parties to negotiate with and I think what we did see was GrainCorp gave a bit of ground in order to get agreements in place.

**DR CRAIK:** So they've done this throughout the industry, have they?

**MR MORRISON (AWB):** I think generally. If you spoke to most participants I think you'd find that most of them now have an agreement with GrainCorp.

**MS MacRAE:** You talked before about wanting one set of protocols, how far away are - how different are the protocols now and what sort of time frame realistically do you think you might get? If you think you could get to a single set, how long might it take you to get there?

**MR MORRISON (AWB):** I think probably another full-year cycle before we could get to a consistent protocol and I think largely that's because of the issue of the auction process in Western Australia. I note, and I have read the AGEA submission,

that they're not in favour of the shipping stem allocation process by auction whereas we can see an auction process working, albeit it needs to be quite considerably different to the one that's currently in place. My understanding is that CBH are reviewing that system.

**DR CRAIK:** We just received a submission which proposes a number of things they would suggest changing, some of which certainly - they may all do, for all I know; I haven't had a chance to read it properly.

**MR MORRISON (AWB):** In our submission we favour an approach whereby there is an independent body which could be Grain Trade Australia, which essentially is given responsibility for running an allocation process, an auction - - -

**DR CRAIK:** Don't CBH appoint what they regard as independent trade - - -

**MR MORRISON (AWB):** They do have a - which essentially runs the auction which does give some level of independence, however, there is still uncertainty regarding the creation of the secondary market and in our view there are some potentially handy competitive aspects to that which is wholly our liquidity of the secondary market which is coming at a great cost in the short term. What we're finding at the moment, and what happened this year, is that a lot of trade participants paid too much for the shipping slots and bought too many of them because they were concerned that the problem that happened 12 months earlier whereby there was a very uncertain and we waited a long time to get loaded was going to occur again and the marketplace wanted essentially clear grain.

As it turned out, Australian wheat was uncompetitive to a lot of other origins for the first half of the year, a lot of participants bought too many slots, paid too much for them and then ended up, rather than pay or forgo the full cost of those slots which you pay up-front, they were prepared to discount in the marketplace to get sales on which is basically undercut the value of Australian grain relative to our competitors. It's not a great outcome and hopefully CBH is recognising the way that the tender was run and then the inflexibility to either roll slots further forward or transfer them to another willing buyer, if that was improved, it would give the trade a lot more confidence and potentially avoid some of those negative issues associated with the aggressive sale of Australian wheat, because they essentially had inability to get out of the slots that they bought.

But the question is: is it better to have certainty about how the process is going to work as far as allocation versus a free-for-all, first in best dressed? AWB's view is certainly such that it would be better off to put in place some rear-end independence and consistent application of rules which were established up-front and that shouldn't be subject to change unless under an act of force majeure by the BHC. So the problem we have at the moment is some of the rules are being rewritten as we go.

It's again one of those issues about transition. There are unintended consequences or they hadn't through fully the implications and that uncertainty essentially because of the liability cap, all resides back with the trader which makes them more risk averse in the way they go about things.

**DR CRAIK:** I think the access undertakings that are in place essentially do have the agreement of the ACCC before they could be changed, before the rules of - - -

**MR MORRISON (AWB):** There are certainly some very grey areas about how the - - -

**DR CRAIK:** How to interpret it.

**MR MORRISON (AWB):** Yes, how the shipping slot process is being interpreted and I think, again, because it was the first time - so I don't mean to unfairly criticise CBH - that there was no ability really to trial, we jumped straight into the full commercial application and maybe in hindsight it may be better to trial just in one port zone rather than in four. But obviously CBH had the painful experience of the prior year and they wanted to address it. I commend them for adopting an approach, I just think it needs some significant amendment and I think it's a better approach than a first in best dressed approach that applies in the other states.

**DR CRAIK:** When you're talking about having uniform rules or whatever protocols in place across the industry, presumably you're talking about industry agreeing to uniform rules rather than some kind of legislated uniform rules?

**MR MORRISON (AWB):** Correct, and I think the GTA exists for that very purpose, it's the trade body and this is the pointy end of the trade. So I think that is the appropriate body to do it and - - -

**DR CRAIK:** Have you taken that up with the bulk handlers?

**MR MORRISON (AWB):** In terms of our discussions with commercially - we have encouraged CBH to continue but change and we haven't had an opportunity yet to sit down with Viterra and GrainCorp and talk about how they're - I think they're probably looking at how it's working in Western Australia. We will be looking with interest at the Productivity Commission's submissions to see where people stand. There are different opinions obviously but we're certainly in favour of a more robust, independent approach to get that done.

**DR CRAIK:** While we're on the subject of the auction system in Western Australia, the link between the auction system and Grain Express - so if you actually purchase a shipping slot - CBH have suggested some modification next year - but you actually then have to identify in a fairly short period of time whether you were

going to use Grain Express or not and then if you didn't use it and it went to the secondary market, the Grain Express commitment was passed through.

**MR MORRISON (AWB):** Yes.

**DR CRAIK:** So you when you purchase a slipping shot, you're actually purchasing a fair bit more than a shipping slot.

**MR MORRISON (AWB):** Correct. You're making an early commitment to the Grain Express system and again, I think this is part of this early transition, from our point of view it's fair and reasonable - if you want CBH to provide full service, that you give nomination in a reasonable period of time. Now, if you're buying a shipping slot in January or November last year and having to nominate for what you want to do in June or July, I think it's quite unreasonable that you have to make that decision about which supply chain and part of the port you need to make within seven days of buying the slot. But I think the biggest issue in terms of Grain Express links back is essentially the constraint around accessing the up-country facilities. Again, I recognise CBH needs to have a reasonable certainty about how they are able to manage those sites, fumigate them, open them, man them but clearly - and I think this was the full intent of Grain Express - it is going to lock the industry in to a very rigid cost structure and we won't necessarily see the efficiencies being passed through to participants of a more flexible supply chain.

What we are seeing is new supply chains being considered - I'm going to say there are probably none yet in operation but - - -

**DR CRAIK:** In WA.

**MR MORRISON (AWB):** In WA, and largely these are being led by growers to try and create cheaper alternatives. None of them are likely to be able to move the volume that CBH has given the scale of their facilities, but they will certainly put pressure on the current Grain Express system, particularly if the grower elects to use CBH as country storage but then decides that they want to transport that grain to a port facility outside of CBH's Grain Express offering, so the direct access. So I think that's probably where the greatest pressure is going to come on the Grain Express system is basically growers wanting to access the grain they've delivered at their local site rather than basically enforced as through the Grain Express system, to basically out-turn grain at one of 10 sites around the state and that's an issue for transport, to create fair access or fair market for transport providers, be they rail providers.

I think that's the real weakness of Grain Express, that it essentially takes away any competitive pressure in freight and basically puts all the responsibility for negotiation back to CBH and on the assumption that they can negotiate a more



efficient outcome than other participants in the industry. So I think that with a relatively short space of time my expectation is somebody will go to the ACCC and say, "This is potentially hurting my freight business in that I can't participate in this industry because of the undertaking the ACCC has allowed CBH to have," and I'm sure that is going to create some challenges for CBH but essentially it is anti-competitive in the way that it's structured at the moment.

**MS MacRAE:** Just to be clear, when you were saying that working on alternatives where you store with CBH and move to port, with the undertaking in place, you can't do that, can you, or you can at a price?

**MR MORRISON (AWB):** You can nominate a direct access where you can - - -

**MS MacRAE:** Sorry, if you have done it through the shipping - - -

**MR MORRISON (AWB):** You have to nominate under the shipping cycle whether you use Grain Express or direct access and there are more charges obviously associated - essentially it ends up being more expensive if you have direct access and then there are issues around essentially grain being shrunk twice. If you deliver to a CBH site the grain is essentially shrunk so CBH takes a charge for the loss of grain and applies that. Then if you basically, under your supply chain, out-turn from that CBH facility and go back through to port - so if you get a cheaper freight - CBH then apply the same shrinkage again for that grain when it delivers to the terminal.

So there's one example you get double shrunk, so you're getting hit twice to use their system. Again, I understand the reasoning why but there's straightaway a reason - there's an inefficiency there essentially in our view. Then obviously there is the issue of the lack of competitive freight alternatives. They are being basically - they're not allowed to essentially participate.

**DR CRAIK:** Aren't traders using alternative - - -

**MR MORRISON (AWB):** My understanding is there has been one trial of an alternative pathway in Western Australia, but the intention is for at least one and possibly two pathways to be set up in competition. But it's challenging to do that on a large scale. It requires a great deal of capital investment. The key point that we would raise there is that there is essentially overcapacity - if you look at the task on an annual basis, there are times where you have insufficient capacity when everybody is trying to get their grain out at the same times which is what happened last year. So that is the real challenge about how you allocate that capacity fairly and then make sure that you are not - from a commercial point of view the challenge is to make sure that if you can find a more flexible way to operate, that you are not going to get caught overinvesting in infrastructure which is not going to generate return.

Again, in our view the historical development of the industry, largely grower cooperatives of government-owned institutions - who are they basically privatised, some are still some cooperatives - this is issue of what's fair and reasonable in the way those owners and those facilities now should be allowed preference to use those facilities versus how you encourage a competitive environment. It's a challenge. Ultimately, I think in Western Australia there is an increasing incentive for investment. You would need very deep pockets and have a pretty high pain threshold to want to build a large scale bulk terminal facility in Western Australia but I think it's constantly on the minds of participants about the benefits of having some competition. But to get competition on a scale basis, you need to be investing - the outer harbour facility in South Australia cost 150 million.

**DR CRAIK:** But to get the wheat to port, are there impediments to traders using other supply chains to actually to get the wheat to port other than Grain Express?

**MR MORRISON (AWB):** No, I don't think so.

**DR CRAIK:** So it is possible to bypass Grain Express to get the wheat to port?

**MR MORRISON (AWB):** It will come at an additional cost because there will be charges associated with accessing up-country facilities outside of Grain Express. Presumably - and I'm not sure 100 per cent of the detail - the rail access system works in Western Australia reasonably well so it's not exorbitant for an alternative provider of freight to use the rail system. Obviously for the volumes being moved state governments and local governments don't want to see all that movement on the road, albeit you can supplement movements on road. The issue is then, what sort of port infrastructure can be created to compete with CBH. I think it's theoretically possible, I don't think it's really been commercially tested yet but there are participants in the marketplace who are willing to try.

**DR CRAIK:** So basically everyone is using Grain Express.

**MR MORRISON (AWB):** Yes, that's right.

**DR CRAIK:** Because it's cheaper, it's easy.

**MR MORRISON (AWB):** Yes, there are costs associated with doing it any other way and that's going to change with the rise of on-farm storage and I think the freight sector working out that it's stifling the marketplace.

**MS MacRAE:** We've spent quite some time on Grain Express and I just wanted to be clear about your view. If it was possible to get an auction system that split the - so there was no requirement once you bought a shipping slot to nominate whether or not you're using Grain Express or that it was a much smaller requirement, would that

overcome the majority of your concerns about Grain Express or would the concerns through the supply chain and the freight competition further down, would Grain Express remain a significant problem?

**MR MORRISON (AWB):** I think from our point of view it's the port access issue which is the bigger issue. So I think the linkage between Grain Express and the port is something that we would like to see changed so that you aren't required to nominate the requirement for Grain Express and I think CBH is going to want to minimise the number of sites they have open at any one particular time and there are a million different ways that you can get your cargoes to port when you look at the number of sites they've got there. So there's a real efficiency issue if it goes too far the other way, which is exactly why Grain Express was brought in. But I do think that there does need to be recognition that tying Grain Express to shipping slots does create a pretty significant barrier and that's pretty undesirable from our point of view.

**DR CRAIK:** It seems it wasn't envisaged when Grain Express was authorised either.

**MR MORRISON (AWB):** I think that's right, the dots were joined afterwards. Grain express was clearly envisaged before the commencement of the harvest previous to last. Then we had the shipping slot issue and subsequently the shipping slot solution came along. Our recommendation to CBH from the start, which would have been in mid to late 2008, was introduce a dispatch demurrage system to help drive efficiency back up the supply chain. My understanding is CBH are looking at the dispatch demurrage model which again would reward CBH for efficiency, obviously recompense either CBH or the exporter for occasions when there's inefficiency. That's a desirable trait to bring into the sector.

**DR CRAIK:** Okay. Just on another issue about access and you raised it as a very important issue to you in terms of fair access for everybody on an equal basis, access to spare capacity for non-bulk handler exporters.

**MR MORRISON (AWB):** Yes.

**DR CRAIK:** I guess the question I have is ultimately at the end of the day relying on the Trade Practices Act rather than the Wheat Export Marketing Act, why should the wheat industry be different from any other pieces of infrastructure in Australia? Why should that have a different access regime from any other piece of infrastructure in Australia?

**MR MORRISON (AWB):** I think certainly the history and the evolution of the industry is quite unique in Australia in terms of the - - -

**DR CRAIK:** Wouldn't every industry say that though?

**MR MORRISON (AWB):** I'm not sure when you're looking at the scale of the actual physical task that it's the same. You know, you've got a perishable product versus one that stores and is aggregated across a vast area and moved through a relatively small number of ports, all controlled by a very small number of players, whereas I think the dairy industry probably - the ability to create access to the marketplace is a lot lower cost. You know, you're not shelling out \$150 million for one facility in one location which has a defined catchment area which has a great degree of production volatility, so I think there are differences. I think the other difference is the fact that the evolution of each sector, as I said before - whether they were cooperatives of government-owned instrumentalities that have then moved somewhat to being publicly-owned listed entities, you know, natural monopolies or are still in cooperative hands, then those bodies, having their own trading arms, we recognise, yes, there will always be advantages for participants over the rest of us.

But to the extent that those participants have the first pick of all the slots and 27 or 28 others basically get what is left will significantly skew the marketplace in favour of those three trading arms which clearly is not in the interests of the competitive marketplace, if you are taking out - you know, if you are essentially creating two classes of participants, those with priority access versus those with access to spare capacity.

**DR CRAIK:** But would you see the need for that sort of regulation forever?

**MR MORRISON (AWB):** Depending on the behaviour of the bulk handlers, yes. Unless we get - and this is this real conundrum we run into where there is actual sufficient capacity across the course of a year based on the production quantities that Australia is currently producing. You know, if GM technology took off then perhaps we're going to need new facilities because we just don't have the capacity to move the volume that we're producing. But today we have the capacity, albeit at particular points in time it is constrained.

But over the course of the year there is enough so it's a matter of people not cutting their own throats by building more capacity in excess of what's required, by being able to utilise fairly the capacity that's there and the same, having to strike the balance with the bulk handlers. Yes, they do own those facilities and they should be seeking to get a fair return on them but giving a priority for their own trading arms is essentially going to lead to a lack of competition. It's different because of the evolution of the industry as much as anything. It would be hard to find an alternative or a proxy. If you're in the mining industry you've got the 365-day certainty - almost - of being able to get your production to port. You don't have to worry about whether it rains or it doesn't rain, whether there is a drought or not a drought. So the certainty of actually building that infrastructure, if you've got the access to the commodity, is far less than if you're buying in the grains sector where it might be

there one year and it's not there the next and you can't supplement anything else through that port facility simply because it just didn't rain.

**DR CRAIK:** The litigation under way in relation to access arrangements in the mining industry might suggest some have a different view.

**MR MORRISON (AWB):** Yes.

**DR CRAIK:** Do you have any other questions on access capacity?

**MS MacRAE:** Only that in your submission you do say that to avoid this outcome of unequal access that the BHC should recognise it's in their long-term interests to create fair and equal access to port terminal facilities because they need throughput and all of that. I can see in the short term it's taking them a while for that to work through and they're in a position but it's just coming back to that question about regulation forever. It seems like a long time. I have been surprised that in such a short time so much changed and so much accommodation and cross-subsidies, all those things breaking down that as a commission we try to look forward a very long time and make sure that we're setting up a regulatory environment that allows for as many competitive processes as possible to develop that even though, as you say, you need very deep pockets to replicate some of these things and is that always going to be efficient, we're very concerned about cutting off opportunities that might be there and by keeping this - in one way by entrenching the regulation we're actually entrenching the supply chains that are there and that is one of the thoughts very much on our mind. Did you want to say any more in relation to that?

**MR MORRISON (AWB):** I think the marketplace is very much tied to production is the answer to that question and the marketplace will provide the solution once investors are comfortable that there is a capacity constraint. The one area where we do have essentially contestability is in the Melbourne Port catchment area with Geelong and Melbourne in particular but also Kembla and Adelaide. It would be a fair guess to say that a return on those investments are nowhere near achieving expectations but I think the marketplace will work out when sufficient production is consistently available that there is a need for new port terminal capacity and I think we're a fair way away from that yet, although I'd like to believe Australia has the capacity to get there through research and development and that nothing stands in the way of that occurring, other people crunching the numbers and working out that it doesn't make any sense.

So, therefore, while that situation does exist, the question is should they be regulated or shouldn't they, and I think in terms of simply the issue of getting fair access does need to be essentially enshrined somehow.

**DR CRAIK:** So on the one you will like to see the getting rid of the authorisation

for Grain Express but keeping the regulation of the port terminals?

**MR MORRISON (AWB):** I think Grain Express - I think it's just a matter of a participant providing a good, sound commercial case to the ACCC to say, "This doesn't work for us - - -"

**DR CRAIK:** If all these problems are such problems with Grain Express, why hasn't there been a complaint to the ACCC or any - - -

**MR MORRISON (AWB):** I think it's still early days and I think probably one of the things which will probably trigger that will be the renegotiation of the rail freight agreement which is due at the end of this year in Western Australia and my understanding again is that CBH is calling for tenders which are due next month from a large number of participants. There's one provider, Rail Freight Services, in Western Australia at the moment. Depending on how that tender works, then I think there could be a significant trigger from the transport sector point of view to say, "Grain Express essentially is blocking us out of participating in that marketplace."

So, again, I think there's an evolution there and I think again the concern, I suppose, is that if - particularly there's the issue of spare capacity only being allocated, there certainly is an element of wanting not to tread on CBH's toes too heavily because the rules of the game are not clear about how that allocation is going to occur.

**MS MacRAE:** There were just a couple of other things. We had a draft finding that the up-storage facilities didn't exhibit natural monopoly characteristics - this is page 12 of your submissions - you give some examples there from WA and I just wanted to clarify, did you feel that that was just in WA?

**MR MORRISON (AWB):** Yes, I think it's very much the case. Our issue in South Australia, we're probably the only other significant provider of bulk services in our country facilities in South Australia. We have four facilities there which feed through - the natural terminal positions are in South Australia and our issue has been in the past, and we have contested this and we lost, was we were charged an additional fee to put our grain through that facility, even though we tested it and we were happy to stand behind it. So it is not as we'd like it in terms of charges but we recognise that that decision has been made. But in Western Australia because of the Grain Express system there are monopolistic characteristics but on the East Coast - and again demonstrating why GrainCorp has probably been a little bit more responsive is they recognise there's a lot of up-country bulk handling capacity and we own 19 sites in competition to them and there are plenty of other smaller participants plus there is a huge rise in on-farm storage and they all create a far more vibrant market than exists in South Australia or Western Australia.

**DR CRAIK:** There is a fair amount of on-farm storage being built in WA.

**MR MORRISON (AWB):** There is.

**DR CRAIK:** I don't know about South Australia so much, but certainly WA.

**MR MORRISON (AWB):** That's right and it represents a significant threat to CBH because of the over-capacity issues but at the moment it's the lack of alternative port facilities - at the end of the day CBH will get a lot of our grain still but they will miss on potential earnings up-country, albeit they'll charge more for that grain to come into the system than it will if it came through the country facilities. The rise in on-farm storage is it just provides the farmer with greater marketing choice is the bottom line. It comes at a risk potentially to quality if they don't manage it well. But if they control it on the farm, everything beyond the farm gate is at their disposal.

**MS MacRAE:** The last big part which you didn't mention as a major issue for you but you do cover it in your submission is just in relation to information provision. I appreciate we're already at 1 o'clock but maybe if we could just have a few minutes. You have suggested here that a lot more information be required to make public than we have recommended and I wonder if you could just go through that with us a bit.

**MR MORRISON (AWB):** There is one particular issue, for example, the importance - and this gets into quite a technical area in which we have a number of wheat quality experts in our business and they get quite excited about it, but it is a fair point when you get into the chemistry of bread production, for example. So it's not something that most of us care too much about but it is very much to do with the day to day - - -

**DR CRAIK:** The consumer does.

**MR MORRISON (AWB):** That's right. It very much does come down to the inherent characteristics rather than the physical characteristics. So my understanding is probably about 100 and - there is significant number of wheat varieties in Australia and they will all express themselves quite differently depending upon what process they're used in and it is very important that the wheat breeding industry, right at the very start of the essential production process gets a very clear understanding of what the farmers are actually producing, what varieties they are growing and why and where, as it is to a trader to understand what varieties are where which will meet customer requirements around the world or locally. In our view access to that information is an industry good, people should pay to get it who want it, but we should be able to ensure that that information is preserved because a wheat breeder's time frame can be eight to 10 years to market. They invest a lot of money up-front to get a return in a very long period of time based on accurately understanding what's actually been produced where.

So in order for Australia to again preserve its reputation as a provider of quality wheat, we think it's very important that that sort of information is actually preserved and I think that fell into the tier 3 category that the Productivity Commission recommends. We actually think that it's significant important and it requires again through GTA, in our view, and GRDC essentially should be the group that intellectual property on behalf of the industry. People should pay to access that information but it should be required that that information be provided.

That doesn't necessarily require the bulk handler to talk about the grade, just simply the variety. So varieties can be spread across multiple grades. Ideally you would want it at a site level rather than a port level but I have spoken to breeders and they say a port level would be okay because it covers a region and they're not specifically interested in one site. But there is actually a lot of value for the industry in actually having access to that sort of information.

**DR CRAIK:** How timely does it need to be?

**MR MORRISON (AWB):** It needs to be annual so at least once year that information needs to be provided. So post-harvest bulk handlers or registered storage providers should be basically saying, "These are the varieties that were delivered into my site on a break down," so that wheat breeders or traders or flour millers can say, "Okay, either that's good" - because they understand the adoption of those varieties occurring - or, "That's the particular variety; I'm not really worried about the grade, that's the variety I need to produce my cake flour and so I'm interested in accessing that market."

**DR CRAIK:** So who should pay to collect?

**MR MORRISON (AWB):** Users. The wheat breeder will pay, so will the flour millers. We pay hundreds of thousands of dollars a year to get that information ourselves. So we ask for samples of all sites so we can run tests and understand the breakdown. So there is a market for it, but it just needs to be facilitated such that the information is provided.

**MS MacRAE:** Would you need a legislative requirement that it would have to be mandatorily reported or do you think the industry would come to an agreement itself?

**MR MORRISON (AWB):** Again, you'd like to think that we could get a commercial solution to that but I think the important thing is - I think there needs to be greater recognition of the value and that there is a recognition that the intellectual property is as much value to the industry long term as it is to the commercial participants in the short term.



**MS MacRAE:** Yes.

**DR CRAIK:** Is there likely to be reluctance on the part of, say, the bulk handlers on providing that information?

**MR MORRISON (AWB):** I hope not. It is commercially valuable, but it would be nice to think that all participants who wanted it could pay to get it. That is probably one of the points, I suppose.

**DR CRAIK:** Yes.

**MR MORRISON (AWB):** We raised a few others. I've been involved in industry discussions over the years where there have been droughts, 2003, 2006, 2007 - there is always a clamour for the domestic industry to understand where is the stock and where isn't it and to know that on a reasonably granular level. Port zones actually know at a lower level the details so they have some certainty about understanding where their supplies potentially could come from. The risk in all of this is it's one thing to understand where the physical stock is, the other question is, is it sold or unsold, and that is always something that won't be available, shouldn't be available. But because that information shouldn't be provided, my view is the bulk handlers again shouldn't have any huge qualms about making that information available because it doesn't necessarily answer all the questions that a buyer needs to know which is, "Is that actually available for purchase?"

**DR CRAIK:** Yes.

**MR MORRISON (AWB):** I know the pork industry has been very big on this over the years about, "We just don't know where the grain is," and I think if we had a slightly lower level of detail rather than port zone down to a more regional level, that would provide some comfort to other industries about the availability of grain in those instances where it is not readily available.

**DR CRAIK:** Do you think the ABS information is useful?

**MR MORRISON (AWB):** It's not as timely as it could be given that we're in a digital world.

**DR CRAIK:** Three to six weeks, yes.

**MR MORRISON (AWB):** We can get a lot of information a lot quicker. It's at another level down in terms of its specificity - a granular level down would be probably a little bit more valuable to the industry.

**DR CRAIK:** Okay. The wheat quality standards suggesting - you disagree with our recommendation that we couldn't identify a role for government in the design, delivery and funding of wheat classification and you seem to feel that there needed to be a government mandate to the GRDC.

**MR MORRISON (AWB):** The way we were thinking through on this was the GRDC has a role to play. The GRDC essentially is a creation of government and then it has a mandate to collect obviously the levy. That levy, I know, is subject to a - the performance is subject to the performance of the Productivity Commission.

**DR CRAIK:** Yes.

**MR MORRISON (AWB):** But we think that having that ability to collect the levy and use that for purposes which it currently isn't used for but we think adds long-term value so I guess we were probably splitting hairs there. We're not saying new requirement for funding, we're not saying a new body is required, we're just simply saying there is one that currently exists and we think that could be used.

**DR CRAIK:** That could be used to do that.

**MR MORRISON (AWB):** Yes.

**DR CRAIK:** Okay. I don't think I have any further questions. Thank you very much - sorry, it's 10 past 1 now.

**MR MORRISON (AWB):** No, my pleasure.

**DR CRAIK:** Thanks very much, Mitch, and thanks very much, Peter, that was very helpful and we may be in touch again after we've been around.

**MS MacRAE:** Thank you.

**DR CRAIK:** We might adjourn now for lunch and we'll come back at 2 o'clock for AGEA. Thank you.

(Luncheon adjournment)

**DR CRAIK:** We might resume. Thank you, AGEA. If you could start off by identifying yourselves and your organisation for the record and then if you've got a few brief opening remarks to make, then feel free to make them.

**MR GREEN (AGEA):** I'll start. Robert Green, I'm president of the Australian Grain Exporters Association.

**MR OSBORNE (AGEA):** Alick Osborne, vice-president of the Grain Exporters Association.

**MS RICHARDS (AGEA):** Rosemary Richards, executive officer for the Grain Exporters Association.

**DR CRAIK:** Thank you. Do you have a few opening remarks you'd like to make?

**MR GREEN (AGEA):** Thank you very much. Thank you very much for the opportunity to address you today. At the risk of repeating ourselves: who does the AGEA represent? We have 18 members and in 2008-2009 we accounted for about 70 per cent of the bulk wheat exported. This year it has slipped back a little bit; we're a little bit under 70 per cent of the bulk wheat exported year to date. I'll start off looking at our submission, we understand that WEMA was designed to be transitional and it was a tool to be used to head towards full deregulation. One of the things we also understand, however, is that provisions were there to create a fair and competitive market and we think these were partly achieved but there is still quite a bit of room for improvement.

Going on to what AGEA believes and that is the accreditation of exporters has worked well in achieving some the transitional goals but there is certainly significant impediment in the supply chain that need to be worked on. We are concerned about some of the points made in the draft recommendation by the Productivity Commission in that if they were adopted it could take us back to a situation that certainly wasn't anticipated or expected at the time deregulation was occurring and planned in 2008. The draft recommendations of the Productivity Commission represent a significant shift and I think will substantially alter the competitive playing field to the detriment of the Australian industry. We will go into a little bit more detail on that as we move forward.

The AGEA doesn't support the decouple of the port access and accreditations. That is what I refer to when I say it could take us back to a situation that wasn't anticipated when we first started heading down a deregulated path. Just to talk a bit more about those points about the decoupling of the port access and accreditation, while exporters are still experiencing considerable costs and inefficiencies in port terminal services, the link to port access and accreditation has helped safeguard the exporters and grower interests by that ACCC undertaking. We will certainly be open

for questions and more details as we go forward.

Secondly, the ACCC undertakings are still relatively new and have only applied for the first half of a marketing year plus where we're up to at the moment. So we probably feel it's a little bit premature to say that it has been working as effectively as it could be and that we should get rid of them. In fact the AGEA outline a number of instances in its response where the undertakings have not yet delivered fair access to ports. We certainly think there is a need to have strong sanctions in place to bring the bulk handlers into a negotiating position and that's critical and we see accreditation as an appropriate sanction to keep them on their toes.

The AGEA does not support the moving of the port access regime to the Trade Practices at this stage and the issue there is it shifts the access test away from total to spare capacity and we believe this could adversely affect the competitiveness of Australian wheat exporters and in time could increase prices and penalise the growers. If you move away from this total to spare capacity, it could see these regional monopolies develop that we talked about and the other thing that we weren't clear on this and why we were concerned about moving from the access regime was that while you talk about sanctions, we're just not sure what those sanctions would look like because we feel that there is a need to have some clearly defined controls over the bulk handlers and the way they operate and probably it is partly out of some of the frustrations that we saw in making the system work. While the access regime even exists today, there are certainly quite a few frustrations in that it has been made almost, in some cases, very, very uncompetitive.

The other point that we would like to make in our opening comments is that the AGEA does not believe the CBH auction system and its business rules have delivered a fair and transparent mechanism for the allocation of shipping capacity. We list a number of points why we make that claim: it has artificially constrained the capacity with the impact of raising the auction premium and therefore you're just adding cost to the supply chain; it has resulted in significant and unjustified costs for the exporters, we believe; it has reduced the competition and increased some of the supply chain costs; it has reduced the transparency and camouflaged some of the market signals to the growers, and this can get wrapped up in market distortions. The other thing, when the auction system was put together, one of the actions we had hoped would come out of that would be an effective secondary market but the rules just meant that the secondary market where you could trade slots and rotate out of positions that you might have actually booked but not ended up using, the secondary market just hasn't worked and we feel there are too many rules and regulations around that.

The other point we would just like to make by opening comments, and it ties back to Grain Express, initially when - we seem to be focusing a lot on WA and

CBH but it's probably where we think there is greatest room for improvement - CBH came to the industry and said, "Look, we've got this idea of Grain Express, if we see the whole picture, we can add efficiency to the supply chain, we can deliver grain to the port much more effectively," we have found that that hasn't worked and, if anything, we would now go back and say that we believe that the ACCC should act to remove that exclusive dealing notification that was given to CBH. The intention when people wrote in and said they supported the idea, very few of those objectives have been fulfilled or delivered.

I have covered a lot of ground there very quickly. We certainly think that the document that you put together is quite extensive and certainly covers the areas that need to be addressed. We just focused on those ones about the access regime, the Grain Express and probably best now if we open up to your questions and we can get into some discussion. Thank you.

**DR CRAIK:** Thanks very much and thanks very much for your detailed submission. It is very helpful. Given it is so detailed and we haven't actually had it for a very long time, we may have to come back to you later on and follow up on a few issues. I guess the first question, the link between access and accreditation; if I read your submission correctly you're basically, I think, agreeing with the commission that accreditation has no ongoing benefits in itself but that it's a very good sanction on the bulk handling companies and therefore it is important that you maintain the link. But as I understand your recommendation about access and accreditation, what you're proposing is that accreditation, notwithstanding its diminishing benefits but ongoing costs, be maintained until 2012 for non-bulk handler exporters even though you acknowledge a lack of benefits but for the function of keeping it in place for the bulk handling companies.

Is that a fair interpretation of what you're saying? It seems to me it's a high price other exporters might have to pay and the community might have to pay.

**MR GREEN (AGEA):** I think that's a fair summary of what we're saying. We did also mention that some of the roles and responsibilities they have taken upon or had been doing could be cut back. It was all sort of linked back to, how do you actually effectively police what the bulk handlers can do if you remove that threat of losing accreditation and who's going to manage the accreditation, but the WEA is already in position to do that and so we believe that is a role that should exist.

**MS RICHARDS (AGEA):** Just on the costs issue, we certainly recognise, yes, that's right but a lot of the costs have already been absorbed in the sense that all the exporters have got their accreditation until 2012. New exporters would have to go through that process if they came in before 2012 so there might be a small impact there but in the sense a lot of costs have been absorbed. There is not a big cost in monitoring of those between now and 2010. But more importantly, we have said keep it there for linkage

but really more important is to keep the port access regimes under the ACCC covering with a principle of fair access for all exporters and I think we said in our submission if there was an equivalent sanction that could be in place, then we're more than happy to support that, it is a matter of defining what that equivalent sanction is.

**DR CRAIK:** The other cost too is not only what the exporters pay for applications and renewals but also the wheat export charge really also funds wheat export at 22 cents a tonne that the growers pay. In relation to sanctions, my understanding, from the conversation this morning, that the ACCC - there are Federal Court proceedings - if there is an issue of breaking access undertakings there are arrangements but we certainly didn't sit around and try and think up a sanction, I have to say.

**MR OSBORNE (AGEA):** The access undertakings run through for two years until 2011 and that coincides with where the bulk handlers have their accreditation to currently.

**DR CRAIK:** That's correct.

**MR OSBORNE (AGEA):** We don't feel that the one two-year period of access tests is sufficient in and of itself and so we would want to see a continuation of that process and we also have not been able to find a mechanism outside of the current connection to bulk wheat export accreditation.

**DR CRAIK:** We did suggest that the access undertaking remain in place for five years, so until 2014 as it was.

**MS MacRAE:** I guess what you're concerned about is that we've been very general and so there should be some sanction. It's not that we don't think there should be a significant sanction, it needs to be a real sanction that they need to take these things seriously until 2014.

**MR OSBORNE (AGEA):** Yes.

**MS MacRAE:** We just felt to have that knife hanging over their head that they wouldn't be allowed to export any more seemed pretty heavy and depending on how blatant or whatever breach it might be, that seemed quite a heavy penalty for them to have to pay. Having said that, we certainly weren't of the view that we would remove that and give them some small alternative which they could easily fund, a small fine or something. We haven't spent a lot of time thinking about what that sanction might be partly because we thought perhaps we weren't the best-placed organisation to come up with one - we're not usually playing policeman. But you shouldn't interpret our recommendations as saying that we would want the access

undertaking to be taken very seriously to 2014. We want it to be a real sanction that bites.

So perhaps we're maybe not quite as far apart on that as might appear on paper and I can well understand because we were so vague in what we said that it's possible that you're interpreting it as well, "Once the link with accreditation has gone, it will be something pretty small." We would be looking for something that would have sufficient bite for them to need to take the access undertaking seriously.

**DR CRAIK:** I guess the other point that you made in relation to the access undertakings was you felt that they should be - because we did recommend they remain in place largely unchanged and you recommended that where there are issues, they ought to be, so they actually ought to be reviewed regularly while they are in place and that that would be a point of difference from our recommendations beyond 2011.

**MS RICHARDS (AGEA):** There are a few issues in here. Your recommendations go to 2014 which I think we wouldn't have any problems with access regime going to 2014, we would support that. It is also the form under which it's there, so it's moving it out of the current regime under ACCC undertakings into the Trade Practices Act Part IIIA is a significant difference because of this issue where at the moment the objective of the WEMA Act is to give fair access to all exporters, which means everyone is treated equally, with the whole capacity as part of that access undertakings moving it to, as our interpretation, and we may be wrong, but our interpretation is moving into the, as per your recommendation - does allow the terminal operators to give capacity to their own operations first under a set of terms that may be different to what is offered to other access. So this issue from some total to spare access capacity that is a key concern to us.

Then the third point as you pick up, Wendy, is, yes, we don't think they necessarily - if there is clearly significant inefficiencies in the system then we think that should be able to change, regardless of whether or not that means significant change to the undertakings, because there are some huge costs in the system at the moment.

**DR CRAIK:** In relation to the issue of moving to access undertakings which are consistent with the Trade Practices Act and different from what the wheat export marketing arrangements propose, I guess the question then we would ask is: why is wheat different from other regulated industries which rely on Part IIIA of the Trade Practices Act and access is in relation to excess capacity as opposed to total capacity? Shouldn't those who put up the infrastructure get some benefit from having put up the infrastructure?

**MR OSBORNE (AGEA):** I think there are two points there. One is that the intent

of the Wheat Export Marketing Act was quite specific as to why those access tests were required, so there is some definition around the reasoning for that. The second is that the port terminals were originally built using grower or taxpayers' money, either in the form of cooperatives or in the form of state based statutory bodies and as and when they were commercialised, they weren't commercialised in such a way that a free market was able to bid for them. The initial commercialisation of a number of the east coast entities excluded purely commercial parties, they were only allowed to be grower-controlled entities. So I think there is a case to say, yes, if an export terminal was built using purely commercial money and they had been maintained using commercial money and all of the investment decisions for that were commercial, then the party that had made that investment would have access to a base level of capacity and the spare capacity would be up for consideration for allocation.

But in the case of these terminals and the way the industry constructed those assets, they were constructed to allow the wheat that needed to make its way to the export market a pathway to do that and to be consistent with that, then it would be about providing the exporters who now participate in that space the capacity to use those rather than the companies that now happen to own those assets.

**DR CRAIK:** Okay. Do you think there will be some point where you don't need the access undertakings? Do think at some point in the history of the grains industry we shouldn't need to have access undertakings.

**MR GREEN (AGEA):** We would like to think so. It took 67 or 68 years to move away from the other one so I wouldn't like to suggest - there will be and I think 2014 is as good a date as any because it gives time for people to get about either making the system work as it is or going about investing money and replicating assets, if you cannot get some satisfaction from having access, so that gives time for the industry to sort it out. Our members have been frustrated in the last 18 months - and we haven't really been going that long - and as we said in last discussion with you, given the time that we have had a deregulated market, things have run reasonably smoothly. This whole thing about determining - the industry is evolving so for the owners of the bulk handling assets are major entities in their own right, they have shareholders they have to satisfy in certain cases - in the west it's a cooperative - but they still have investment hurdles so they will be trying to maximise return and if you start getting back into the argument about total capacity as opposed to surplus capacity, that is open to interpretation: how many grains you put through, how hard we want to work the elevators, do we work 24 hours a day?

All those things are open to interpretation which then impacts capacity, which then impacts the availability for the rest of the industry, so we need someone to keep a very close eye on it and if we link it back to the Trade Practices and their definition of surplus capacity, I think that is open to interpretation.



**MR OSBORNE (AGEA):** We have certainly noticed in some quarters progress in negotiating better outcomes or better ways to work within the access undertakings that exist and that is a recent phenomenon, it's not a national phenomenon. We would put that down to the fact that while the access undertakings are an imperfect mechanism, it is causing some of the terminal operators to consider how they can make the best of the interaction between their operations and their exporters in that framework that suggests without those access undertakings in place, that negotiation would have been very one-sided and not in the export community's favour.

**DR CRAIK:** Okay. Have you got any other questions on access and accreditation?

**MS MacRAE:** It is kind of related, I guess, but Grain Express is next, isn't it?

**DR CRAIK:** Yes. We might move onto Grain Express. Do you want to start on that?

**MS MacRAE:** The bottom line, if I understand it correctly, is that you like to see the exclusive dealing notification removed for Grain Express and one of the issues that we discussed a bit earlier with AWB, who appeared earlier today, was just in relation to the link between Grain Express and the shipping slot options and effectively when you buy a shipping slot you're now also having to make the decision about Grain Express and the secondary market then gets caught up with selling more than a shipping slot. If it was possible to break the nexus between that GE choice and the shipping slot, would that take the pressure off having to remove that notification? What I'm trying to get at is, is it the port issue that's the big one in relation to the Grain Express and the linkage to the port access or is it more of an issue or just as significant in terms of the supply chain.

**MR OSBORNE (AGEA):** The capacity constraint is not the port itself. The capacity constraint is bringing grain, in Western Australia's case, to the port and what Grain Express does is leaves solely with CBH the decision as to how much capacity will be brought to bear for delivery of grain to port. So if an exporter has stock that they wish to move, an export sale that they wish to fill and there is still available capacity at the port to physically load the ship, the exporter can't access transport to bring that grain to the port, as they can in any other state. That is where, in my view, the blockage exists.

**DR CRAIK:** Sorry, why can't they access transport?

**MR OSBORNE (AGEA):** Because Grain Express gives CBH the sole right to provide all transport from up-country CBH facilities to port and the vast majority of grain in Western Australia still goes in with a CBH receipt - up-country receipt facility. So the connection then to the options is that to bring on more capacity you

have to be willing to pay a surge fee or an overtime charge or something variously described in that way, but you can't pay that premium and be sure that it's the market price that brings that incremental tonne of grain to the port to satisfy your export sale. So I think that's where the vast disconnect and the real problem with Grain Express lies, that it puts in the hands of only CBH that decision as to how much capacity for movement of grain from up-country facilities to port will be deployed in the market and which transport company or companies get to provide those services. That is the first issue.

The connection with the auction process is that the auction process is very prescriptive in that it says you've got to declare how you're going to move your grain to the port, whether it's Grain Express or not, and that has no bearing really on CBH's decision, as far I can see, as to what transport they will employ, particularly when you're bidding in October for capacity that you might not use until July the following year. The auction rules are also very prescriptive in that you can't pay a fee or a charge or negotiate to have that slot moved to a different point in time, even if there is capacity available.

**MR GREEN (AGEA):** The fact you have to make a decision within five days, just reiterating Alick's point, at the time of doing that when you're buying your slots you could be several months removed from when you plan to ship the grain so we think that's overly restrictive.

**MS MacRAE:** You have a suggestion, have you, of 22 days?

**MR GREEN (AGEA):** Yes, that's what we would like.

**MS MacRAE:** Prior to nomination.

**MR GREEN (AGEA):** Prior to nomination of the vessels.

**MS MacRAE:** So auction slot prior to nomination of the vessel.

**MR GREEN (AGEA):** The other thing is there's still a lot of smoke and mirrors within the Grain Express in terms of what is the actual rate, are there other benefits being passed on in your freight rate or is it only the costs in terms of surge capacity, little things like that that haven't been quite as transparent as we had anticipated or expected.

**DR CRAIK:** Is anyone using the systems outside Grain Express to move grain to port?

**MR OSBORNE (AGEA):** For bulk grain on a very minimal basis, I would say. For containers, yes, there's a volume of grain that's moving outside of the CBH

system but I don't have figures available that would say what the amount is.

**DR CRAIK:** So the impediments are the fact that once it's in the system up-country moving it out is prohibitively costly.

**MR OSBORNE (AGEA):** It gets trapped in the system. There is no way of bringing other transport resources to bear to bring that to port, even if capacity otherwise exists in the system.

**MR GREEN (AGEA):** This is probably going over areas that you are fully aware of, but once it's in the CBH system and you want to take it out and put it on your own trucks, for example, to run it to port because you happen to have a more competitive freight rate for your road than the rail, but you've got the cost penalty of getting it out of the system which tends to negate any benefits you may have on the road transport. The Western Australia market is not far enough advanced yet in terms of on-farm storage to have access to on-farm storage or private storage that knows the quality of the grain that's coming out that's not going to have an insect problem when you get it to port, because you get it to port and while it may be accepted in as direct delivery, it hasn't been tested greatly because people are a little nervous about what could come up to block you from delivering that grain effectively or once it's in the system, when you come to load it there might be insects or something in it that will stop you loading the vessel that wasn't picked up when it was delivered into the port.

So there are quite a few little areas of concern that people have before they charge off and direct delivery into the system. It probably goes back to there is not a well-developed up-country storage network outside of CBH at this stage.

**MR OSBORNE (AGEA):** It's very clear in any of the terminal operator's rules and terms and conditions what penalties would be applied to someone who brings grain from a third party system through and contaminates the rest of the grain. But there's no mention of what happens if you bring clean grain from a third party system and it gets contaminated by grain that it's in the terminal operator's systems what recourse that person would have. So that is one-sided and that to me - I realise this is going back to the terminal access - would cause you to question the fees that were being charged for some of those risks because they're only ever one-sided and I don't believe that only third parties have insect troubles.

**DR CRAIK:** So do you believe that the Grain Express authorisation ought to be removed or at least reviewed?

**MR OSBORNE (AGEA):** Certainly reviewed and it's a preference of our members that it is removed and the contestability gets brought to the supply chain from up-country to port in Western Australia.

**MS MacRAE:** You mentioned in one place in the submission and I can't find it now, but I'd just be interested in your comments about Export Select. I know it's different because it doesn't have that formal authorisation but how do you find that situation in South Australia? Is that less of a problem?

**MS RICHARDS (AGEA):** Yes, I think the area that you referred to was sort of a different issue but similar. It's not as restrictive as Grain Express but certainly some of our members - it is restrictive in the sense that you can only take grain out of approved bulk-handler storages. Those approved bulk-handler storages are those defined by Grain Trade Australia. The process that Grain Trade Australia has set up for approved bulk-handler storages is really around facilitating track contracts to happen, so it really didn't have any relevance to a system that would allow you to bring grain under hygiene. So our argument is that Export Select should be available to any private storage and handling system that has appropriate hygiene standards and quality controls in place. Some of our members do have on-farm systems that are quality controlled that should be able to be treated similar to approved bulk-handling sites.

**MS MacRAE:** Does GTA have the power to change their arrangements or is that not the process that - - -

**MS RICHARDS (AGEA):** I think they're set up for totally different purposes.

**MS MacRAE:** Right, okay.

**MS RICHARDS (AGEA):** So someone who is setting up a supply chain to allow direct access into port doesn't need to do some of the things that GTA might require to allow track contracts to facilitate. So I guess they're just saying they're different purposes.

**MS MacRAE:** Yes, so you would need to change the access protocols.

**MS RICHARDS (AGEA):** Export Select needs to be more open to considering any direct access supply chain that can meet their hygiene and quality controls.

**MR GREEN (AGEA):** I think maybe a simple solution is they just publish that, "We will accept grain from any storage, provided that storage has XYZ," and maybe it's been audited by X or something, so you could define it. It wouldn't be hard to address.

**MS MacRAE:** No.

**MR GREEN (AGEA):** It's just a matter of - - -

**DR CRAIK:** Are they reluctant to do that?

**MS RICHARDS (AGEA):** I understand from some of our members that, yes, that is the case.

**MR OSBORNE (AGEA):** Is it correct at Export Select you have to prepay the freight as well when you book in Export Select?

**MS RICHARDS (AGEA):** That's right, yes.

**MR OSBORNE (AGEA):** So I believe that's correct but it would bear checking. In South Australia with Viterra and on the east coast with GrainCorp, it is more of a first-come first-served. You can put your nomination in and you can reserve some space. But in all cases, whether it's a CBH auction or the Viterra system, Export Select, it is an attempt to front-end the revenue for the service. In other words, it's not just a fee to reserve some capacity which has a relationship to the fixed cost of providing that capacity and often in most cases it's a downpayment or a pledge by the exporter to cover the full fixed-end variable cost of using those facilities. In the case of the CBH auction, it is the risk of being deemed to have lost capacity. If you don't use those slots, then you've got to pay the fobbing charge, whether you've used it or not. That's a significant cost that the industry is bearing. I think we argue in our submission that the charge for reserving capacity or the penalties for not using capacity should be lower and more commensurate with the fixed cost of providing that.

**DR CRAIK:** Things like a flat fee, rather than tonnage charges.

**MS MacRAE:** So in relation to where you might want to go around the bulk-handling system, is it fair to say it's easiest in the eastern states because you haven't got those Grain Express and Export Select areas, and then easier in South Australia than WA? Would that be the way it sort of runs in terms of being able to work around the - - -

**MR OSBORNE (AGEA):** There's more export container or container availability on the east coast than there is in Western Australia or South Australia so that provides the first and most obvious conduit for exports to flow other than through the bulk-handling system.

**DR CRAIK:** Is that because of the number of ports that ship containers? Is that what you're saying?

**MR OSBORNE (AGEA):** The number of people that are importing TVs and whitegoods.

**DR CRAIK:** Okay.

**MR OSBORNE (AGEA):** That's the boxes bringing things in.

**DR CRAIK:** The reason the boxes come here.

**MR OSBORNE (AGEA):** Yes, that's where the boxes are and the shipping services are. Melbourne provides the only competitive environment where you can take grain out of the Port Kembla and/or Geelong area, and Portland as well. To some degree, the Adelaide Outer Harbour has the potential to do that but we haven't really seen it working that hard yet.

**DR CRAIK:** The other issues that we had, the CBH auction system, we've talked about that; the secondary market.

**MS MacRAE:** One of the other comments that you've made, it's on page 11 of your submission, there's just a statement there that, "There's been little evidence of improvements in supply chain or port efficiencies." I was taken aback a bit by that. I know they're a long way from perfect but I guess if I'd been asked, on the evidence that we'd seen, I would have probably said there's been quite an improvement in supply chain efficiencies. I guess I point to things like the unwinding of the cross-subsidies and the closure of some receival sites and the switch in some places where it seems to be more economic to use road than rail. Some of those things seemed to be, I thought, in the space of only a year, quite a fast unwinding of some of the inefficiencies in the system. So I was just interested in what lay behind that statement. I can see from your point of view you're very frustrated with the blockages that are still there but that still seemed quite a strong statement to me, that there hadn't been much in the way of improvements in efficiencies in the supply chain.

**MS RICHARDS (AGEA):** Yes, I think there's obviously a number of specific things but I think in general some of those issues around rationalisation of receival sites et cetera was well and truly in place before deregulation had come or was coming, so I don't know that deregulation itself can necessarily claim some of those efficiencies. I think, particularly in Western Australia, we'd actually say there's probably been a little bit of a backward step in terms of some of the cost transparency to growers and to the supply chain because of this bundling up of some of the charges. As Alick was just talking about with Grain Express, we actually don't know what the transport charges are. So I think there had been quite a shift pre-deregulation with the way some of the pricing had gone to try and be transparent to growers of what the costs in the supply chain were. I think certainly in Western Australia you could argue that it's perhaps gone backwards a little bit.

**MS MacRAE:** Right.

**MS RICHARDS (AGEA):** But I guess a lot of our comment was really just saying that whilst the issues have been slightly different, there really probably hadn't been a big improvement from the first year of deregulation in moving grain through the ports to the second year of deregulation. We've got different issues and the cost burdens may be slightly different but overall, it's still been an enormous cost burden to the industry.

**DR CRAIK:** Do you support the notion of an auction system for allocating shipping slots as opposed to first-come first-served, if it was a different auction system?

**MR GREEN (AGEA):** The mechanics of the auction system are quite sound, we think, it's just the rules and regulations that sit around it that complicate it, some of the inflexibility on it. If you had an auction system that allocated capacity but that capacity could be traded on, could be rolled on, was enabled to operate in a secondary market, it could be traded without that 5 cents a tonne fee going to CBH for doing whatever they do - so the mechanics of the auction system, it's got some merit, it's just all the other rules that make it very complicated, yes.

**DR CRAIK:** You seem to imply that you prefer the first-come first-served to the auction system, or is that just because of the way it's worked?

**MR GREEN (AGEA):** The first-come first-served has worked on the east coast and South Australia for the most part because those ports haven't been tested by a huge export task. Those first-come first-served systems one day will be tested. I think there will be need to cause improvement in those. The AGEA did propose a different form of auction to CBH. In fact I think it's fair to say that the AGEA was the first one proposing to CBH that they consider some form of auction because we believe very strongly that the market needed to be able to understand how much capacity was available and how much capacity was demanded. The proposal that we put to CBH was much more to allow a secondary market to do it, so the corollary of what we were proposing was similar to a share issue and if it's oversubscribed, then everyone gets a pro rata issue of capacity and CBH could then step away from the process of it and whoever turns up with the slots with the appropriate notice, having paid whatever they paid for them, would have the right to use that - - -

**DR CRAIK:** So CBH is out of the secondary market basically.

**MR GREEN (AGEA):** That's right.

**DR CRAIK:** It's a free market.

**MR GREEN (AGEA):** Yes, CBH determined after a number of meetings - I won't

use the word "consultation". There were a number of meetings that they would go with the auction system that they determined to put in place which was very different than anything the AGEA had been proposing or had requested. We certainly acknowledge it's not for us to get everything we're asking for but the auction system that has been put in place creates a number of problems, and the way I would describe it is that it is a system whereby exporters are asked to put money on deposit, unsecured, for an unknown return in order to have the obligation to underwrite somebody else's business. I don't think that's a very efficient or commercial means of allocating capacity.

**MR OSBORNE (AGEA):** So the little things like the definition of "capacity" and these rules I talk about, and allocating it out in tranches, what's the merit of that? One of the things we argue as the AGEA is that you have a certain amount of capacity for your elevator that runs efficiently, and I think we'd all agree that on paper there's more capacity than we ever hope to export out of Australia in any way near, so why do it in tranches? All you're doing is basically pushing the market up and leading to ineffective pricing of the asset. You see it now; X came out, and as time has gone on, the more recent auctions have effectively had no interest because people are starting to say, "It's not worth that and if we pay that" - you'll end up that one side of the market has to subsidise that pricing. There are a number of rules that we could say that it just adds complications to the allocation of space and it hasn't made it easier.

**DR CRAIK:** This issue of the \$62 million in this auction premium fund that is to be reallocated on some basis to somebody, do you have some concerns about that? Would you describe it as opaque?

**MR GREEN (AGEA):** We have had to derive that number by some of our own projections, calculations, hearsay. If it's in there and if it's a pool, it should be made available. Why wouldn't the industry who's contributed to it be aware of it, what the size of it is.

**DR CRAIK:** It's a large amount of money.

**MR GREEN (AGEA):** A large amount of money. The fact, if you look at the rules - and you may have been one of the people that bid \$16 a tonne to buy the capacity but then for whatever reason, the customer you wanted to ship that to didn't want that grain in that particular period, so you didn't end up using that capacity and you couldn't find someone to buy in the secondary market so you forfeited that \$16 a tonne. But under the allocation and the rebate, because you didn't ship the tonnes, you don't get the money or anything back. You're excluded from that pool. So there's little things like that and that's probably why people have got a bit gun-shy.

**MR OSBORNE (AGEA):** The rebate is only paid if you actually shift, and the



design of the auction was supposed to avoid gaming, but I think there is a risk that whoever has the biggest shipping activity is going to accrue the largest amount of the refund under the formula that CBH have published. So without having done the maths on it, I think there is a risk there of some sort of gamesmanship to accrue more of the rebate from the people who are not shipping, who are still obliged to pay the 14.10 plus \$3 in loss capacity if they don't ship in that position. So in the first auction, we saw something like \$47 million placed on deposit on 19 October and I think around 4.2 or 4.3 million tonnes of capacity was allocated at that time. In the next auction, something like another \$17 million was placed on deposit in auction premiums to secure another two million tonnes approximately of capacity. By 16 November there was only interest for around 300,000 tonnes of capacity with maybe \$1 million. Since then, on that scale, what money has been paid or bid for auction capacity subsequently doesn't make it on to the chart. The last three tenders have been no bid, none allocated.

It's interesting to look at the maximum amount paid, being \$16 per tonne in the July and August periods but quite a volume between, let's say, 10 and 14 dollars in February, March, April, May, June. Pretty much all the other months fell with the peak amount of premium paid being between 10 and 14 dollars. The average works out to be somewhere between 5 and probably 8 dollars a tonne.

**MR GREEN (AGEA):** So there are a lot of things involved in that and we say we haven't seen the efficiencies; they're some of the things we're talking about.

**MR OSBORNE (AGEA):** Last year you could pay your \$62 million in demurrage, this year you can put it on deposit for an unknown result.

**MR GREEN (AGEA):** And then rather than forego that money you put on deposit, you then go out and chase the market either down in the export market to get a sale on to suit your slot so you use it or chase the domestic market up to buy your grain to make sure you've got the grain in a position to meet that slot. So either way, we'd argue it's not an efficient way to price your commodity.

**DR CRAIK:** I think in your submission you make the comment that the issue of limited liability of the bulk handlers - - -

**MS RICHARDS (AGEA):** I think that's AWB.

**DR CRAIK:** Was it AWB? But it was a point I think you made in previous submissions about the limited liability of the - - -

**MS RICHARDS (AGEA):** We certainly make comments about the lack of accountability from the bulk-handling side. Certainly things like demurrage dispatch, and I think Alick made the reference earlier, there's a lot of rules that are

one sided where the exporters are accountable to the bulk handlers if there's costs, but there's very little accountability back the other way if there's any losses to the exporter. So, yes, in a general principle - and we also argue this very strongly in the ACCC undertakings - that there's a number of elements where accountability is very much one way. We would prefer to see that as a one-way street. Exporters have to be accountable for their side of the equation but we'd like similar accountability back from the bulk-handling companies.

**MR GREEN (AGEA):** Just focusing on demurrage dispatch, having an effective demurrage dispatch process in place that wasn't impacted by rules where, when you actually analysed it, it wasn't fair, if you look at it, there's quite a lot of - that's the way it works in most of the world. You have a demurrage dispatch; if someone can load a vessel quickly, they'll share in some of the benefits because you as a shipper will also benefit. But there was a reluctance from some of the bulk handlers to actually really go at it hard and say, "Yes, we'll be into this and we'll do it like it's done in the rest of the world," and when you actually analysed it, you started finding that there might have been a discussion about demurrage dispatch but a lot of it was clawed back, so you might find that you end up paying dispatch but in the end, you're actually on demurrage with your vessel. Once again, it's got overly complicated.

**MR OSBORNE (AGEA):** I certainly think if the terminal operator had a mechanism of understanding how the way they allocate their capacity was how that decision was made, so, "We had this vessel on demurrage, we had these vessels where we can earn dispatch, how do we maximise the return?" then you would be able to give the terminal manager some benchmarks of accountability and some decision-making capacity as to how they ran the terminal, but that doesn't exist. That really doesn't exist at the moment.

**DR CRAIK:** Why are Australian bulk-handling terminals then so different from the rest of the world?

**MR OSBORNE (AGEA):** Not all terminals in the world do have a demurrage and dispatch, but the majority do. It's purely a function of the statutory history. There was in the previous regulated environment two people making decisions, the exporter and the terminal operator, about what volume needed to be moved in any period and what capacity was available, and the exporter took it upon themselves not to overbook the capacity, so then the issue of demurrage and dispatch accrued only to the exporter. That meant that it wasn't available as a signal to the terminal operator and I think it was the exporter who ran the terminal's capacity, not the other way round. But now with multiple exporters, the terminal operators have to determine some means of allocating their capacity and I don't think they frankly know how to do it.

**DR CRAIK:** Okay.

**MR GREEN (AGEA):** Even if it might be in a situation where you have your own elevator, as in other parts of the world, loading your vessels, your first priority is to get the vessel loaded as quickly as possible because that way you earn some dispatch which you're effectively paying back to yourself. We're saying in the Australian situation, the bulk handler is entitled to share in some of that if they load the vessel quickly and when you start doing extensions of what their effective loading rates have been, for the amount of infrastructure that exists, they are very slow, given what the rate of capacity is on paper versus what actually gets loaded, there's opportunities being missed there.

**MR OSBORNE (AGEA):** It raises the issue of the commercial return for a terminal operator and there's no argument that they should be able to make a commercial return but not on an uncommercial investment. Some of the numbers that get thrown around as to what is being invested in shiploaders, for instance, in parts of the country would build full terminals in other parts of the world. So a commercial return is a fair thing but not on an uncommercial investment.

**DR CRAIK:** I think it was the US Wheat Associates fellow that commented that the fobbing fee charged at Australian ports is quite extraordinary by world standards, certainly by US and Canadian standards. Why is that? Is there a reason for that?

**MR OSBORNE (AGEA):** I would say because there is no competition in providing that service, so there's no benchmark, and also because huge sums have been invested in those terminals because the money hasn't had anywhere else to go.

**DR CRAIK:** Because the cooperative - - -

**MR OSBORNE (AGEA):** The cooperative structures, yes. The profits of the company have to be reinvested in the system, whether it's warranted or not, whether it's the best use of the money or not.

**MR GREEN (AGEA):** It probably doesn't relate to this hearing, but that's one of the things you see about - "can expect a commercial rate of return" is one of the things that's written into the legislature or into their rights. How do you actually determine that? If someone is to build a Taj Mahal for \$300 million, it's great, it's beautiful, it's shiny, but if you expect a commercial return on that, but the Taj Mahal only does the same job as something that you built for \$50 million, it's an inefficient pricing of assets and someone is being made to pay for someone's investment decision and ultimately it leads to an inefficient system.

**DR CRAIK:** We've only got a few minutes left, so we probably should move to quality, if that's okay.

**MS MacRAE:** Yes, that's right. I was on to that page now.

**DR CRAIK:** We've got a few issues about quality and issues about things that you would like to see changed. I thought there was a possibility for exporters to nominate someone to go and check if all the grain had been shipped out.

**MR OSBORNE (AGEA):** Exporters are able to nominate an independent superintendent. The argument has been around their access to the parts of the terminal that they need to see to determine if the sampling is occurring in the way that it's said it's done. For instance, depending on the market that you're going to, there may be a requirement that the superintendent has to sign off on the fact that they have monitored the sampling process. Now, if they can't get access to the point where the sampler is dipping into the flow of grain, it's difficult for them to be able to do that. Sometimes that's a government requirement on the importing side. It's all very well and good for someone to say the sampler is working and it is taking samples from this flow of grain, but we employ superintendents to go and make sure that that is actually happening, not that someone said it was because it was last week.

A solution that has been proposed is to put cameras in that area to show that the sampler is working on it - see someone holding a newspaper up with today's date on it - so it's that type of issue that comes up around that.

**DR CRAIK:** So the bulk handlers refused to allow that to happen?

**MR OSBORNE (AGEA):** The bulk handlers have in certain circumstances resisted that very strongly and they certainly have resisted any suggestion that the superintendent should be there to tell them how to operate their terminal. The latter point makes sense and we agree with that but there should be no reason why a superintendent shouldn't be granted access on an occupational health and safety - on a safe basis to carry out the work that they have been appointed to do.

**MR GREEN (AGEA):** We're not advocating going down an FGIS system like they have in the US, but there you have people sitting in the terminals that are taking samples off the whole time.

**DR CRAIK:** Are they paid for by the industry?

**MR GREEN (AGEA):** It's paid by the government, so that just adds cost. We can't logically see why your independent surveyors shouldn't have access to the grain flow to take the samples that are needed for you to meet your documentary requirements.

**MR OSBORNE (AGEA):** A lot of this has to do with what was previously acceptable to AWB. But in that circumstance, the terminal operator had no

commercial interest in the grain going through his terminal. The difference today is that the terminal operator or their trading division now has a commercial interest in the grain going through that terminal and therefore other people with commercial interest in that grain want to be able to determine that the grain that they have bought and paid for the service of putting it on their vessel is actually going on their vessel. We also want to avoid situations where the wrong grain is put to the vessel and we're notified after the fact and incur greater expense. So we would prefer to get the call that things are going wrong before it goes into the ship's hold.

**MR GREEN (AGEA):** And the commercial risk clearly sits with us as individuals. If something goes on that doesn't meet the specification and gets to the other end, you're facing quite expensive consequences, so you want to ensure that your surveyor has minimised that risk locally.

**DR CRAIK:** Okay. Information on stocks, you suggest that WEA might have some role in that. Can you sort of explain that?

**MS RICHARDS (AGEA):** We've said the same thing in our resubmission. We think the information on stocks should be available. We pretty much support a user-pays system the first time round. I think what we're really saying here is that it's not really about the funding, it's more about ensuring that there is someone who is actually requiring that information to be reported, because without that, some of the players may not report that information, so we think the stocks information is important and it should be available.

**DR CRAIK:** Do you think it should be more than what we recommend?

**MS RICHARDS (AGEA):** No, I think we were happy with what was recommended. Yes, as I say, the information side, I think we're reasonably comfortable with that. I think our bigger issues are much more at the front of our mind, but I think we just saying here that if WEA was going to be in place for another couple of years, then that might be one of the functions that it could oversight.

**DR CRAIK:** Okay.

**MS RICHARDS (AGEA):** We wouldn't say keep WEA just to provide information.

**DR CRAIK:** Okay. I think that's all the questions that we've got today, so thank you very much. So should I say to everybody in the audience, which I think is just the Productivity Commission staff, that concludes today's hearings. Is there anyone else who wants to appear today before the commission? No. We'll adjourn these proceedings and the commission will resume in Perth on 3 May. Thank you once

again and thanks for your detailed submission.

**MR GREEN (AGEA):** Thank you.

**MR OSBORNE (AGEA):** Thank you.

**MS RICHARDS (AGEA):** Thank you.

AT 2.59 PM THE INQUIRY WAS ADJOURNED UNTIL  
MONDAY, 3 MAY 2010