Wheat Export Marketing Amendment Bill 2012

Submission to Rural and Regional Affairs and transport Committee April 2012

CBHGROUP
linking growers to customers

Executive Summary

The CBH Group provides this submission in response to the Senate RRAT Committee Inquiry into the Wheat Marketing Amendment Bill 2012.

The CBH Group welcomes the introduction of the abovementioned Bill which the Australian Government seeks to implement based on recommended changes outlined by the Productivity Commission's from its Inquiry into Wheat Export Marketing released in July 2010.

Consistent with previous submissions to the RRAT committee and the Productivity Commission, the CBH Group strongly endorses the intention of the Australian Government to further facilitate the transition of the grains industry to a deregulated market place.

CBH has outlined on previous occasions that the grains industry transition to competition in bulk wheat exports has progressed smoothly and this was adequately demonstrated in Western Australia during the most recent record 15 million tonne harvest which was managed by CBH with no major issues of concern to industry participants or regulators.

CBH does not support the retention of Wheat Exports Australia or the Wheat Export Charge. CBH believes that the transition benefits of the existing export accreditation system have finished with only the costs of that system remaining. These costs will ultimately be unnecessarily borne by Australian grain growers should it not be discontinued. Australian growers will not be assisted in maintaining their international competitiveness by continuing to add costs to their supply chain. It is often forgotten that Australian grain needs to get to the international market place at least at the same price as foreign grain. Nowhere is this more important than in Western Australia where 90 to 95 percent of all grain grown has to be exported.

CBH is confident that a voluntary industry code for port access arrangements will be achieved that meets the needs of a developing grains industry to continue the provision of fair and reasonable access on economic terms to exporters. Industry consultations and development of the code commenced prior to the Wheat Export Marketing Amendment Bill being introduced to Parliament and are proceeding well through the assistance and participation of a wide cross section of industry members including: growers, exporters, port operators/bulk handlers, industry organisations and relevant Government agencies and departments.

Recent issues concerning wheat quality standards and classification have been overstated and are being adequately addressed through improved practises in grain handling, the marketplace and the participation of industry organisations such as Grain Trade Australia and Wheat Quality Australia.

It is evident from the increased number of industry participants now successfully exporting bulk wheat via Australian grain ports to a growing number of international markets that there is undoubted confidence and competition in the Australian grains industry. There is also broad industry expectation that progress towards a normal market place will continue which is further illustrated through the level of corporate activity and investment in infrastructure since the deregulation process commenced in 2008.

Introduction to the CBH Group

The CBH Group, formed in 1933, is a West Australian grain grower owned and focused co-operative with approximately 4,600 grower members. CBH operates a receival point network of almost 200 receival points including four export port terminals, with grain storage capacity of around 20 million tonnes. CBH's port terminals historically export approximately 90% of Western Australia's average annual crop of between 10-12 million tonnes. Western Australian grain exports represent up to 40 per cent of Australia's annual grain production.

The CBH Group's purpose is to create and return value to Western Australian grain growers primarily by:

- Providing an efficient, cost effective and open access supply chain from farm gate to Western Australia's export markets; and
- Linking growers to their customers by:
    - providing a competitive and credible option in the market place and;
    - promoting the value of Western Australian grain to its customers.

Growers exercise control over their co-operative primarily through the direct election of nine of the twelve members of the board of directors. An additional three directors with special skills are appointed by the nine grower elected members and ratified by grower members at the next General Meeting.

In the past 10 years alone the CBH Group, on behalf of its members, has invested more than $1 billion in capital upgrades to its port, rail transport, and storage and handling networks.

CBH's facilities are acknowledged as amongst the most accessible, modern and efficient in the world.

As a consequence of the partial deregulation of the bulk wheat export market in 2008 the CBH Group developed and implemented a freight co-ordination and efficiency system which has enabled the following benefits for the WA supply chain:

- Co-ordinated the vessel accumulation task in a deregulated marketing environment.
- Provided transparent transport costs to all growers and customers giving all of industry the benefit of large scale transport resources.
- Allowed marketers to commit to port allocation booking slots with confidence that grain stocks would be available at port when required by ensuring the retention of bulk scale in a deregulating environment.
- Allowed all marketers to post prices and compete for all grain from all growers at all sites without the risk of having small quantities of grain stranded at isolated sites where the transport cost would make moving the small quantity of grain to port prohibitive.
- Maintained quality and consistency of Western Australian grain in the market place by actively managing grain to all exporters.

Confident in the future of the WA grains industry, the CBH Group made the decision in 2010 to invest approximately $175 million on new locomotives and aluminium rail wagons thus providing WA grain growers with the most modern and efficient dedicated grain rail fleet in Australia.

The CBH rail investment followed on from the sensible actions of the Federal and State Governments in allocating rail funding to the degraded WA grain rail network that will significantly enhance the safety, efficiency and productivity of grain transport in Western Australia.

CBH commenced rail operations in March 2012, a month prior to the expected commencement date, with the first train of 50 CBH wagons successfully transporting 3500 tonnes of wheat from the CBH Merredin receival site to the Kwinana grain terminal. Already 50,000 tonnes has been transported to port via the new rail operations.

In 2011/12 CBH introduced Quality Optimisation for growers, something which had long been requested but which could not be achieved under the prior regulated system. Quality Optimisation allows growers to benefit from the quality of grain that they produce. This is another example of the increasing pace of innovation that is possible as deregulation occurs. CBH estimates that Quality Optimisation has allowed growers the ability to benefit from the quality of their grain to the value of around $40 million this year alone based on figures received from growers.

In broad terms the Wheat Export Marketing Act 2008 will:

1. **abolish the Wheat Export Accreditation Scheme on 30 September 2012;**
2. **abolish the Wheat Export Charge on 30 September 2012;**
3. **wind up Wheat Exports Australia by 31 December 2012;**
4. **require providers of grain port terminal services to pass the access test as a condition for exporting bulk wheat until 30 September 2014; and**
5. **abolish the access test on 30 September 2014, contingent on a non-prescribed voluntary code of conduct being in place.**

The CBH Group agrees with the intention of the proposed legislation as detailed in the above five points. CBH believes the Productivity Commission Report into Wheat Export Marketing Arrangements which provides the factual basis for the proposed legislation was a thorough investigation and assessment of the transition arrangements for bulk wheat exports.

In relation to points; 1, 2 and 3, CBH concurs with the Productivity Commission when it stated the following concerning the future of the accreditation scheme;

> *"There is no evidence to indicate that there is a special need for the Australian Government to intervene to accredit bulk exporters of wheat beyond the transitional period, notwithstanding that some growers considered the size of the wheat export industry made it a special case. The Australian Government does not accredit exporters of other grains or most other agricultural commodities, and the export of those commodities operates smoothly. Ultimately, it is the responsibility of wheat growers to exercise due diligence in their business dealings with traders, just as they do for other grains or in other commercial relationships. Diversification across a number of traders can be used to help manage the risk of an individual trader defaulting on payment.*
> *The transitional period as it relates to accreditation is approaching its end. An ongoing accreditation scheme would have virtually no benefits and would continue to impose costs."*[1]

The Productivity Commission went on to recommend that in relation to the future role and funding of Wheat Exports Australia that;

> *"The Commission is proposing that WEA be wound-up on 30 September 2011. Consequently, the Wheat Export Charge of 22 cents per tonne on all wheat exports should be abolished from that date."*[2]

The Productivity Commission further noted in relation to the accreditation of bulk exporters that the;

> *"Assessment processes have lacked transparency. In addition, there are other potential costs of accreditation arising from market distortions and reduced economic efficiency. These include a disincentive for entry by new exporters, a loss of trading flexibility for accredited exporters, and increased incentives to export wheat in bags and containers (which are unregulated). Such costs are more difficult to measure and may not be particularly large. However, if accreditation remains in place on an ongoing basis, these costs would be expected to increase as they become more entrenched and harder to unwind, especially in light of the significant risk of regulatory creep."*[3]

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[1] Productivity Commission 2010, *Wheat Export Marketing Arrangements*, Report No. 51, Canberra at pages 11-12
[2] Productivity Commission 2010, *Wheat Export Marketing Arrangements*, Report No. 51, Canberra at page 12
[3] Productivity Commission 2010, *Wheat Export Marketing Arrangements*, Report No. 51, Canberra at page 11

It is clear that after wide consultations with a broad cross section of industry participants and careful assessment of the facts that the Productivity Commission strongly holds the view that there is no ongoing value to the industry as a whole to retain either the accreditation system, Wheat Exports Australia or the Wheat Export Charge .

CBH can verify that, notwithstanding resistance by a percentage of WA grain growers in 2008 to the move towards a deregulated bulk wheat export marketing arrangement, growers have now broadly embraced the direction of change and are ready to move to a fully deregulated marketplace secure in the knowledge that there will be adequate industry safeguards. CBH is aware of the growers' viewpoint because it maintains a close connection with its 4600 grain grower shareholders through regular communications including but not restricted to; its nine grower directors, its grower advisory committee and regional grower meetings involving the participation of the CBH CEO and Chairman.

In relation to points 4 and 5 pertaining to port operators, CBH draws the Senate Committee's attention to the following excerpts from the Productivity Commissions Inquiry Report:

> *"Long term application of the access test has the potential to:*
>
> - *create incentives for wasteful strategic behaviour by both port terminal operators and traders, and potential rival transport and storage providers, seeking access*
> - *constrain the scope for port terminal operators to deliver and price their services efficiently*
> - *reduce incentives to invest in port terminal facilities to expand capacity for third party use, to provide new services, or to maintain existing facilities — particularly if port operators perceive that the regulated terms and conditions are favourable to port users.*
>
> *In addition, third parties are also likely to have reduced incentives to invest themselves, further locking in existing supply chains if:*
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> - *they consider regulatory arrangements will ensure they can access services provided by infrastructure facilities on favourable terms (rather than investing in rival facilities)*
> - *they consider other exporters would be able to access any new facilities on terms and conditions determined by a regulator."*[4]

CBH has invested significant levels of growers' financial capital in improving infrastructure at our four port facilities during the past decade. These improvements have included the following:

- $33.7 million annual investment in port facilities;
- $32 million Geraldton cell refurbishment;
- $55 million Kwinana Port; and
- $128 million Albany Port upgrade.

The WA grain ports have the capacity to manage the WA grains harvest at current record levels and CBH is developing strategies to cope with the potential for record harvests at or above 20 million tonnes annually.

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[4] Productivity Commission 2010, *Wheat Export Marketing Arrangements*, Report No. 51, Canberra at page 15

However unnecessary over-regulation and rigidity in the oversight by regulators impacts adversely on investments in port terminal infrastructure and port management practises, particularly at peak export periods.

Other matters noted by the Rural and Regional Affairs and Transport References Committee through its “Inquiry into Operational issues in export grain networks”

Recommendation 1

8.27 The committee recommends that, in recognition of the critical role that Wheat Exports Australia is playing in the deregulation of the Australian bulk wheat export market, a continuing and enhanced role for Wheat Exports Australia be further investigated in the inquiry into the Wheat Export Marketing Amendment Bill 2012. This role may include, but not be limited to:

- accreditation of exporters;
- quality assurance to protect Australia's reputation as a quality wheat exporter; and
- performing the role of industry Ombudsman.

CBH response

CBH does not support the continuation of Wheat Exports Australia, the Wheat Export Charge or the accreditation of exporters as detailed in the above comments.

CBH believes that quality assurance matters should be left entirely with the industry to manage. Recent comment concerning perceived quality issues in Indonesia are an over-reaction to some trading from rogue marketers. CBH Grain has built and maintains a sustainable marketing model in the Indonesian market. CBH has not had a single complaint this year relating to wheat quality requested to be loaded onto vessels heading to Indonesia. CBH Grain will export up to 30% of this year’s WA harvest into the Indonesian market and has taken great care to manage expectations of what grain quality will be available following a harvest that was severely impacted by weather conditions.

CBH Grain works hard to maintain regular contact with its grain customers and makes available regular crop quality profile updates, which include general physical characteristics of grain all the way through to end use profile for such products as; noodles, malt and general purpose flour – it is about building long-term sustainable market access for our grain growers. Quality matters would not be assisted by a “centralised quality policeman” as was the case during the single desk days.

CBH does not support the role of an industry Ombudsman. There are already adequate means for industry participants to raise concerns and or complaints with their various industry representative bodies, government departments and agencies or directly with the service provider.

There is also some suggestion that a “speed camera” or “traffic policeman” is necessary to prevent the “cowboys” from invading the industry. With the greatest of respect, no such evidence has been shown that this will occur nor that the existing regulatory agencies are insufficient to adequately police this style of conduct. Maintaining a special purpose body to deal with what is effectively misleading conduct remains an inefficient method that allows duplication of role and regulatory creep and overlap.

Other matters noted by the Rural and Regional Affairs and Transport References Committee through its “Inquiry into Operational issues in export grain networks”

Recommendation 2

8.28 The committee recommends that a mechanism for making wheat stockpile information available in an equitable manner to all participants in the bulk wheat export industry be further considered in the inquiry into the Wheat Export Marketing Amendment Bill 2012.

CBH response

CBH has indicated previously its views on extending the availability of wheat stockpile information but in the interests of convenience will provide a brief summary of previous submissions.

The CBH Group is of the view that it and the wider industry already provides detailed information to aid decision-making on the farm and in the supply chain. Release of any further level of detail should be with the agreement of those that own the grain i.e. growers or marketers, with the balance of decision residing with our grower members who have built and own the central storage system.

As a grower-owned co-operative, CBH is reluctant to release information that we believe could potentially disadvantage growers. The CBH Group already releases a significant amount of information on the grain delivered into our storage and handling network. The CBH Group believes there may be a need to ensure currently published grain market information can be processed and delivered to market faster. This would include the aggregation and publishing of all grain market information in an easily accessible central and/or independent location such as a website or portal co-ordinated by the Grain Industry Group of WA or the Australian Grain Institute.

Information the CBH Group currently provides includes:

- Monthly wheat stocks held in the CBH system broken down into feed and milling grades. This is currently given to the Australian Bureau of Statistics on the first business day after the end of the month and is published by the ABS approximately 3 weeks later.
- Weekly harvest reports showing total grain receivals by port zone.
- A daily list of all bulk cargo departures from CBH ports by either bulk wheat or non-bulk wheat, tonnage and exporter via the Shipping Stem on the CBH Group website.
- Updates throughout the growing season and harvest on CBH Operations forecasts for total grain production in Western Australia.

The CBH Group’s concerns about releasing more detailed information on grain production and stocks in WA include:

- It could result in growers receiving lower prices. Publication of stocks by grain type, grade, location and/or sold/unsold is incredibly valuable to the buyer, particularly if there is a large crop of wheat, barley or canola.
- There are mixed and polarised views among growers over the level of information which should be released.
- CBH Operations relies on information provided by growers in the production estimates survey for harvest site and service planning. If CBH were forced to release this information it is likely the rate or accuracy of response would fall, seriously affecting CBH’s ability to gather the information required to manage harvest receival planning. Any such reduction in efficiency would be to the detriment of the entire grain industry in Western Australia.

- It could create incentives to store grain outside of the CBH Group system in order to take further advantage of an information asymmetry between CBH as the de-facto information provider and other storage providers.
- It contains information that is relevant to CBH’s core business of storage and handling and which may be detrimental to CBH if it were released. CBH is subject to potential competition from other storage providers and needs to ensure that it is not disadvantaged.
- It is imperative that Australia does not erode any competitive advantage by releasing detailed stock and quality information that is detrimental to the returns of growers.

Information Segregation

As a consequence of Grain Express the CBH Group voluntarily implemented an information segregation policy to ensure that third party information did not transfer from CBH Operations to the CBH Group’s marketing arm, CBH Grain, which would provide CBH Grain with an unfair or improper advantage over similar competitors. The CBH Group’s information segregation policy has been subject to three reviews by independent auditing firms since its inception in 2008 and on each occasion CBH has been found to be compliant with that policy.

CBH does not release information regarding grower’s warehoused grain to CBH Grain or any other party. CBH believes that this information belongs to the grower and that the grower has the opportunity to decide if it is in their best interest to provide this information to third parties if and when they wish.

There have been several submissions to this enquiry which have directly accused Bulk Handling Companies, and by association the CBH Group, of providing information on grain stocks, grain quality and grower warehousing stocks unfairly to their associated marketing arms. These allegations, in the case of the CBH Group, are unfounded and no such submission has provided any verification of their claims. Disappointingly Wheat Exports Australia has also adopted this approach of making allegations without evidence.

Cargill’s submission (under the AWB (Australia) Limited brand), directly alleges that bulk handlers improperly share information with their own trading operations which they prohibit grain buyers from accessing. Again no evidence is provided and CBH notes that Cargill does not in their submission categorically state that this practice does not take place between their own bulk handling arm, GrainFlow and their numerous trading entities. To the best of the CBH Group’s knowledge, Cargill has not implemented an independently audited information segregation policy between its bulk handling and trading entities comparable to the CBH Group’s policy.

Certain stakeholders have suggested that the CBH Group should be forced to give up its integrated business model and revert to being solely a bulk handling company. This goes against the global trend in the grains industry of increasing vertical integration and consolidation. Forcing the CBH Group to disband its trading and marketing arm would effectively remove the only substantial Australian and grower owned and controlled marketing option available to growers in Western Australia. The absence of CBH Grain in the market would result in the total domination of the market by foreign owned multi-national conglomerates who have proven their desire to further commoditise Western Australian grain to better suit their global multi-origin supply strategies. This will result in the erosion of premiums currently gained by growers from the efforts of CBH to promote Western Australian grain and specifically target premium markets for Western Australian grain.

CBH does not support the proposal that would require growers to specifically nominate if they did not wish their stock information being made publicly available. Such a nomination would require an ability to track and change that decision which would have attendant costs for little to no demonstrated benefit. CBH growers have direct and regular contact with their Cooperative and at no stage has there been any desire for change from the current arrangements.