



## Western Grain Growers Committee

### Submission

to the

## Senate Standing References Committee on Rural & Regional Affairs & Transport

## Inquiry into the Ownership Arrangements of Grain Handling

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## INTRODUCTION

The Pastoralists and Graziers Association of WA (Inc) (PGA) is a non-profit industry organisation established in 1907, which represents primary producers in both the pastoral and agricultural regions in Western Australia.

The PGA and its members believe in the benefits of competition, free markets without government distortions, the reduction of government regulation within their industry, and a free enterprise philosophy regarding the change of ownership of property.

The PGA Western Grain Growers Committee represents the interests of its grain growing members in Western Australia.

The PGA's general position is that it welcomes and encourages investment in Western Australia. It is imperative in a globalized economy that Western Australia is seen as being 'open for business'. Consequently, the PGA welcomes all investment, be it foreign, or otherwise.

Foreign business investment in the Western Australian economy brings opportunities for local businesses. In the case of grain growers, it allows them to integrate their efficient production system into overseas supply chains that may offer better business systems, access to value adding through downstream processing, technical expertise, and penetration of grain trading markets.

## GENERAL COMMENT ON THE INQUIRY

From the Terms of Reference, the PGA can only conclude there is some doubt over the quality of the decision taken by the board of Directors of Grain Corporation Limited (Grain Corp) to accept a takeover offer from Archer Daniels Midland (ADM) on behalf of its shareholders.

The PGA finds it difficult to understand why the Senate would choose to direct the committee to do this when the board of Grain Corp has unanimously recommended the offer to its shareholders.

The PGA believes that there is no need for any third party intervention between willing buyers and willing sellers.

In the view of the Western Grain Growers Committee of the PGA, there is no ambiguity in the ownership arrangements of Grain Corp. In the case of Grain Corp, it is owned by the shareholders. As such their interests in ownership must be protected. Shareholder rights of ownership must be secure under the law. Furthermore, those shareholders expect the management and directors of the company to exercise a fiduciary responsibility that is in the best interests of the shareholders. Part of this fiduciary duty is to maximize and/or realize the value of the company.



Consequently, the board of Directors of Grain Corp is duty bound to accept the advantageous offer from ADM.

## TERMS OF REFERENCE

The ownership arrangements of grain handling, with particular reference to whether:

(a) such arrangements are in the interests of:

(i) **Australia's farmers; and**

International corporations bring with them access to international financial markets. They have brought liquidity into the Australian grains marketplace.

Australian grain growers would be put into a position of disadvantage and placed at risk if they were solely reliant on local sources of liquidity.

International corporations should be encouraged to invest in Australia. The global economy is still suffering from volatility and high sovereign debt. It is important that such investment funding as is available is locked into the Australian economy.

According to the WEA Report for Growers 2011 – 12, following the partial deregulation of bulk wheat exports, spot prices at the Port of Kwinana averaged AU\$21.36 more than at the Port of Newcastle. This was an average net change of AU\$23.00 per tonne in favour of Kwinana prices since partial deregulation of bulk wheat exports, excluding the 2006 and 2007 drought years.

These dry statements do not say what really happened when grain markets were deregulated in Western Australia. There was an immediate impact on the prices prevailing in Western Australia, where competition from grain traders drove the price of wheat up by \$20 per tonne. Recent bidding has shown differences of up to \$30 per tonne compared to export parity.

With the introduction of competition, the price of wheat in Western Australia went from the cheapest in Australia to the most expensive; to the benefit of Western Australian grain growers and the nation's balance of payments.

Western Australia's unique advantages in grain production are reflected in this basis improvement, and continue to gain strength.

Furthermore, most of the wheat being traded in Western Australia is being procured for cash. This has strengthened the liquidity position of Western Australian grain growers, compared to the liquidity they would have if having to wait for a return from a wheat pool.

The Western Australian market is realized exclusively on export markets, contrary to the eastern states, where 9 million tonnes of grain are consumed in domestic markets.

(ii) **Australia's long term food security interests;**

The PGA notes that once a domestic market is satisfied, remainder goods and services are exported.

With respect to Australia's food security and specifically relating to grain, the domestic market for grain competes directly with the export supply chains in the grain producing states.

The cost of domestic grain for the Australian consumer can not be divorced from international grain pricing. Other local factors also contribute to pricing decisions.

The domestic supply and demand equation heavily favours supply on an annual basis.

Australia needs international corporations for their ability to sell goods like grain into overseas markets.

The PGA contends that the choice of goods and services that businesses offer and the value for money they represent are functions that derive from the actions of the owners in response to market conditions, and not the nationality of the owners.

In any competitive market, supply and demand confront each other, and transactions are made. Buyers and sellers must "pay" the price that the market asks.

In the Australian grain production context, if the domestic market wanted grain more than the export market, then it would have to pay more for that grain.

Grain growers would react robustly to increasing domestic price signals and release more grain for sale. This is how a functioning market works

In 2010 - 11 Australian wheat production was 27.891 million tonnes, and exports of wheat were 18.431 million tonnes. Clearly, there are no implications to Australia's food security. Furthermore, common sense dictates that not all countries are in a position to grow all kinds of food stuffs. Obviously trade in foodstuffs is an important mechanism in overcoming food insecurity.

**(b) there are potential impacts on competing grain traders' access to grain handling facilities, ports, silos and transport infrastructure;**

The PGA expresses surprise that this term of reference is worthy of comment and inquiry.

Educated commentators on the state of Australia's grain logistics, such as the Australian Commodity Research Institute point to the lack of value in traditional wheat logistic supply chains exemplified by up-country storage connected to ports by under utilized railway lines.

Whilst it could be said that this is the result of the recent deregulation of wheat marketing, it has followed many years of statutory regulation funded by interventionist state and Commonwealth government levies on grain growers. The infrastructure system that grew out of this has resulted in a commingled commoditized bulk handling system that prevents segregation of wheat product, prevents end user quality control specifications and prevents full traceability of product identity. Of course, it also prevents value adding.

Consequently, large scale capital investment in grain handling infrastructure has proven extremely difficult to source domestically.

Currently, Grain Corp (and CBH Ltd, and others) is constrained by the provisions of the *Trade Practices Act 1974* and must offer an access undertaking for the provision of Port Terminal Services for those seeking to export bulk wheat. The purpose of this is “to avoid regional monopolies unfairly controlling infrastructure necessary to export wheat in quantities, to the detriment of other accredited exporters. All accredited exporters should have access to these facilities while allowing the operator of the facility to function in a commercial environment”.

Whatever the ownership arrangements of grain handling, it will be subject to the sovereignty of the Commonwealth Government and the other state government jurisdictions. This will not change. Unless the Commonwealth Government itself changes the rules, or competing grain traders invest in grain handling infrastructure, access will not change with ownership.

ADM have recently publicly stated that it has the same incentive as all other users of the current Grain Corp infrastructure to maximize the throughput of grain so that it can deliver cost effective services that maintain competitiveness.

**(c) there are potential impacts for grain traders, and a competitive marketplace, of access to warehoused grain stock information;**

The PGA notes that warehoused grain stock information is provided for in the access undertakings that port terminal operators give to export bulk wheat exporters.

This will be further codified in the forthcoming Prescribed Mandatory Code of Conduct for Port Access.

Various agencies such as state governments, ABARES, port operators, consultants, domestic buyers and traders and exporters all collect statistics on;

- ✓ Grower Demographics,
- ✓ Pre-harvest (production forecasts),
- ✓ Harvest forecast,
- ✓ Post harvest (actuals),
- ✓ Stocks,
- ✓ Prices,
- ✓ Shipping stem,
- ✓ International stocks information, and
- ✓ Wheat Quality.

The Australian grain trading market is very competitive and contestable.

Grain growers have become skilled in gathering market intelligence and can and do pay for expert opinion and advice.

There is always a balance between information held by the seller and that held by buyer. Buyer and sellers will both try to remain “opaque” for as long as it gives them bargaining power and the ability to negotiate.

For a market to be contestable there must be this element of uncertainty. Market activity and participation will generate the information necessary to facilitate trading.

There is apparently some concern amongst some parts of the grain industry that there are significant quantities of grain stored on-farm, and it may be that this grain is not presently being effectively accounted for.

Just as the title to that grain stored on farms rests with the farmer, the ownership of that grain stock information also rests with the farmer.

However, the simple fact remains that grain growers will release on-farm grain stocks in response to price increases.

The PGA's position is that the supply of aggregate information on the quantity and quality of unallocated stocks in the bulk handling companies should be on a voluntary basis and there should be no government intervention to compel the release of this information.

Consequently, the PGA contends that this term of reference may also lead to the disclosure of on-farm grain stocks information, to the trading disadvantage of grain growers.

**(d) there is potential for conflict between the responsibility to shareholders and the best interest of Australian producers and consumers; and**

The PGA disputes the implication of this term of reference, as it seems to suggest that the interests of shareholders and Australian producers and consumers are mutually exclusive.

To accept the basis for this, there must be an incorrect assumption that consumers will buy goods and services to benefit the less efficient supplier, who refuses to manage their business satisfactorily.

It is the PGA's experience that the consumer wishes to be served as well as possible, and prefers superior goods and services over inferior quality.

Archer Daniels Midland is a listed company on the New York Stock Exchange, and any Australian can buy a shareholding in it.

Whilst it is true to say that ADM will seek to return value to its shareholders, it will do this by buying Australian grain and on-selling and/or value adding that grain to end users. In doing so, it will compete in a deregulated Australian grain market against other companies competing to buy the same grain. This competitive price discovery process will bring its benefits to Australian grain growers in the form of being able to choose to supply to ADM, or not, depending on the price offered.

Furthermore ADM is a global food processing and commodities trading company that produces food and ingredients, and more recently, biofuels. Through it, Australian producers would be connected with growing global demand for crops and food, particularly in Asia and the Middle East.

The Foreign Investment Review Board is the government agency best placed to consider any potential conflicts of interest, and it should be noted that the monetary threshold of

investment is likely to be the lesser figure of \$248 million as Grain Corp's ownership of port facilities may be considered as a prescribed sensitive sector.

**(e) any other related matters.**

The PGA regards continued and new investment in grain industry infrastructure, business, finance and associated activities to be indispensable. We cannot conceive where the equity funding can come from without some recourse to foreign investment.

Any decision as to the ownership of Grain Corp should not have an impact on investment decisions in Western Australia, unless politicians seek to "rearrange" the potential for the impending change ownership of Grain Corp.

The timing of such intervention could not come at a worse time, when Australia's total net foreign liabilities have been estimated as \$877 billion and government expenditure and deficits are expanding. In the local media it has been widely reported that business insolvencies have increased, lending for home buyers has fallen, and the value of the Australian dollar is decreasing.

Another aspect of this witch hunt opposing the acquisition of Grain Corp by ADM is the repercussions for all investment decisions such as an increased risk scenario for corporate and foreign investment in the Western Australian grains industry and the Western Australian economy in general.

The onus should be on those who seem determined to discourage foreign investment to explain where they see the alternative sources of funding emerge from, or else explain how they will make farmers better off by reducing the incentive to invest in the farm sector.

## **CONCLUDING REMARKS**

The underlying premise of the exchange of goods and services is what the market does.

The PGA says that it is not who owns the assets and exercises control over them, but how efficient the resources of production are allocated and how efficient the business is managed. Furthermore, businesses are always better run and better safeguarded where the property rights of the owners are protected from arbitrary and capricious intervention such as signalled by the opponents of the ADM take over of Grain Corp. Such intervention can only undermine the perception of the security of investment in Australia.

There can be no confusion as to the value of Grain Corp Limited's net worth. From ADM's perspective, it is \$13.20 per share. Shareholders will make an informed decision on whether or not to accept this takeover bid.

The regulatory regime that Grain Corp currently complies with will be the same for ADM. Government needs to facilitate investment by making the Australian economy attractive to invest in. It has previously done this by deregulating wheat export market arrangements.

There is already much external interest in investing in Western Australia, where investors and international corporations are looking at all aspects of the Western Australian grain production and logistics system for its potential. There is already a significant investment in facilities at the Port of Bunbury. For the first time in 80 years, there is export competition at

the port, and CBH are already taking measures to meet this competition by announcing a loyalty discount to grain growers.

Such an open investment environment can only occur in the absence of heavy handed government interventions.

Now that the grains industry has been deregulated it will be driven by the buying and selling and investment decisions of its participants, and the balance sheet management of profit and loss. Interventions that seek to address potential failings that have not actually appeared, but are subjective political judgments, will result in adverse consequences.

In conclusion the PGA says it is better to be guided by these processes than demagogic political imperatives.

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