



AgForce Grains

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14 June 2013

Committee Secretary
Senate Standing Committees on Rural and Regional Affairs and Transport
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Sir/Madam

Re: The ownership arrangements of grain handling

AgForce Queensland is the State's peak rural organisation dynamically representing almost 6,000 of Queensland's rural producers and agribusiness's. AgForce actively assists and represents broad acre producers in the beef, sheep and grain sectors at a local, state and national level and strives to ensure the long term growth, viability, competitiveness and profitability of the broad acre industries.

As the peak industry body for grain producers in Queensland we would like to provide comment on the Archer Daniels Midland Company (ADM) proposed acquisition of GrainCorp Limited.

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

(a) such arrangements are in the interests of:

(i) Australia's farmers; and

AgForce has no particular objection to foreign ownership in general. However we do have concerns regarding the access ADM will have to the entire east coast crop data, this is not something a foreign company has had access to in the past.

Given the scale of ADM AgForce is concerned how they will use the data in the international market and how it may affect Australia producers and their returns.

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

The Queensland market is quite competitive so producers do not *have* to sell to ADM. There are many options for producers to sell and Queensland has a significant domestic market i.e. feedlots that do require consistent quantities of grain. Also while the current price of grain is reasonable, in recent years growers have struggled to remain profitable, therefore at this point we do not see food security as a major issue at this point in time, as there is no signal from the market to indicate a problem.

However should the situation change, AgForce would seek assurance from the Federal Government that they will ensure the food security of Australia. Provided that market remains competitive and ACCC ensures ADM do not engage in anti-competitive behaviour, in this instance food security should be assured.

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

We have attached our submission to the ACCC that will outline our concerns in this area.

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

Please refer to our submission to the ACCC.

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

Technically there would be little change from the current situation, as GrainCorp is a publically listed company. However due the history of GrainCorp many producers were shareholders.

In recent years in Queensland producers believe that the service and benefits to producers did come second to shareholders. The majority of sites in Queensland have not adequate maintenance carried out for some time, equipment does not work properly and traders and producers alike have difficulty accessing their grain in storage. However, the profits announced by GrainCorp in the last two years have been amongst the largest, if not the largest ever posted by GrainCorp.

AgForce believe GrainCorp's quest for profit has been at the expense of producers. While this is a difficult problem to address with a non-government entity, AgForce believe that some of the problems currently being experience can be resolved by ensuring open and free access to up country storage sites and that any anti-competitive behaviour is met with swift and appropriate action.

(e) any other related matters.

Please refer to our submission to the ACCC.

Thank you for allowing us to provide comment on proposed acquisition of GrainCorp by ADM. We apologise for the brief nature of our comments however, we only became aware of this opportunity today.

Should you require any further information please do not hesitate to contact me or Nina Murray AgForce Grains Policy Director on

Yours sincerely

Wayne Newton
AgForce Grains President



AgForce Grains

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23 May 2013

Australian Competition & Consumer Commission
Att: Braeden Smith
ADM proposed acquisition of GrainCorp
GPO Box 3131
CANBERRA ACT 2601

Dear Mr Smith

RE: Archer Daniels Midland proposed acquisition of GrainCorp

AgForce Queensland is the State's peak rural organisation dynamically representing almost 6,000 of Queensland's rural producers and agribusiness's. AgForce actively assists and represents broad acre producers in the beef, sheep and grain sectors at a local, state and national level and strives to ensure the long term growth, viability, competitiveness and profitability of the broad acre industries.

As the peak industry body for grain producers in Queensland we would like to provide comment on the Archer Daniels Midland Company (ADM) proposed acquisition of GrainCorp Limited.

AgForce believes that there are fundamentally three parts to the GrainCorp or merged business, being; trading, up country storage/accumulation and port handling/bulk operations. ADM is currently a minor player in all areas and with the exception perhaps of trading due to their links to Toepfer, however even then we would not consider them a significant player. We do not expect to a great deal of difference in the other two areas.

1. Please provide a brief description of your business or organisation, including your relationship to ADM and/or GrainCorp (e.g. customer, competitor, supplier or interested third party.)

As mentioned above AgForce is a member based organisation representing grain producers in Queensland. Part of AgForce's role is to liaise with GrainCorp on behalf of our members when problems occur and sometimes assist to provide important information to our members regarding GrainCorp's operations.

AgForce and GrainCorp also work very closely on ensuring the Grain Harvest Management Scheme (GHMS) is managed and administered efficiently and correctly each year.

AgForce would seek strong assurances from ADM that they would continue to support the GHMS. The GHMS is a very important in field loading system that allows producers to manage loading grain in the busy harvest time. The GHMS is a permit scheme that allows trucks up to 7.5% tolerance on legal weights when loading a truck in field for delivery to nearest receival point. Currently GrainCorp is the largest receiver and their participation is very important to producers and transport operators to participate in the scheme.

At this time AgForce does not have a relationship with ADM.

Trading and marketing of grain

Product Market

- 2. GrainCorp and ADM (through its related entity Toepfer) both supply marketing and trading service for a variety of grains. The ACCC is considering whether each specific grain variety constitutes a separate market or whether there is substitution and close competition across all grain varieties. Please comment on the following:**
- a. Do existing competitors each tend to provide marketing and trading services for multiple types of grain, or do they focus on individual types of grains?**

In Queensland, to a degree both are correct. For example Queensland and Northern New South Wales are currently the only regions in Australia that can produce the Australian Prime Hard varieties of wheat. Therefore some marketers and traders would focus on these varieties for specific markets as they are considered a premium type of grain.

However that is not to say that they would *only* market or sell prime hard varieties. Many traders and marketers buy and sell all types and varieties of grain if they can find a market. We believe that most marketers and traders have individuals in their business that focus specifically on particular grains. i.e. pluses, feed grain etc.

In Queensland there is a strong domestic market for feed quality grain. For example feedlots will target specific types or varieties as they need it for their specific nutrition mix. They will vary the mix of grains according to price.

- b. Would it be commercially feasible for an existing competitor who provides these services for one type of grain to expand (or switch) to supply those services for other types of grain? Please describe any costs or barriers to switching to the market and trading of other grains.***

The barriers to entry for a new competitor to simply buy and sell grain in this market are not significant. As mentioned previously the majority of traders and marketers already buy and sell a diverse range of grain.

The biggest problem currently facing traders and markets in Queensland is their ability to access and accumulate grain when required. Due to GrainCorp currently having a basic monopoly on up-country storage, traders, marketers and producers are only able to access their grain when it is suitable for GrainCorp. This has proven to be a significant issue and is costing competitors time and money.

Geographic Market

- 3. The ACCC's preliminary analysis indicates that it may be appropriate to analyse the proposed acquisition on the basis of separate state based markets for the marketing and trading of grains in WA and SA and a combined east coast (Vic, NSW, and QLD) market. Do you consider that these market definitions are appropriate or do grain marketers and traders compete across wider or narrower geographic regions? In answering this question please consider the following:***

- a. The extent to which grain marketing and trading services are supplied on an interstate basis (i.e. grain sourced in one state is supplied to customers located in another state);and***

This would depend on the extent and size of the trading or marketing business. For example the smaller traders traditionally operate in their local area and source grain locally. However medium to large traders would source grain from many different sources, locally and interstate.

As mentioned previously Queensland has strong domestic demand from feedlots, and much of the feed grain is consumed in Queensland. However grain can and is sourced from NSW from both farm gate and bulk storage facilities.

AgForce believe the competition for interstate grain would mainly come from export orientated traders or marketers, due to their size and scale.

In the case of oilseeds, (until this upcoming harvest) such as sunflowers there are currently no receiving facilities in Queensland, with the closest being in Newcastle. However this recieval facility is operated by Cargill and not GrainCorp.

b. *The extent to which grain marketers and traders located in one state compete for customers located in another state.*

AgForce does not believe that there would be great competition from traders and marketers between states when buying off farm, unless they are located near the border. AgForce believe this would predominately be due to the cost of transporting grain in relation to the price of grain.

However it is unclear on whether this is the case when grain enters the bulk handling system. Traders and marketers often buy and sell on the basis of grade. I.e. Australian Standard Wheat (ASW) to fulfil a contract. Therefore technically a trader or marketer in Queensland could buy ASW that is sourced from a GrainCorp storage facility anywhere in Australia and send to the buyer.

Based on anecdotal reports, AgForce believe that basic monopolistic culture of GrainCorp is limiting the competition of trade between states, when grain is stored in their bulk handling system.

AgForce seeks assurances from ADM that all traders and marketers have open and transparent access to their grain (when stored in the bulk handling system) when required.

Competition Factors

4. *Please describe the current nature and level of competition between ADM (including its related entity Toepfer) and GrainCorp.*

Apart from Toepfer, ADM does not have a presence in the Queensland market. AgForce is not aware of Toepfer's market share in Queensland, however we don't believe it to be significant and therefore believe the competition would be minimal.

5. *Please comment on the operations of, and the competitive constraint from, other domestic supplier of grain marketing and trading services. In particular, for each significant competitor to the merged ADM/GrainCorp, please indicate.*
a. *Estimated annual revenues and/or grain volumes supplied;*

AgForce is unable to comment specifically on this question, as grain volumes are not made available to the market. However does have concerns regarding the issue of access to stocks information. Currently none of the Australian bulk handlers disclose any stock information to the market. While AgForce can understand why this takes place, the problem is that other traders and marketers are unaware of where the grain is. There have been some instances where ships have left empty as the trader/marketer has been unable to find sufficient grain to fill the order in time.

AgForce seeks a similar system as the United States have, where general stock (held in bulk storage) information is available to the market. We believe this would ensure that ships are not leaving empty and there is more transparency in the market, regarding competition.

Also outside of GrainCorp's and ADM's annual reports we are not in a position to comment on their annual revenues.

b. The extent to which its products/services would be substitutable for the merged firms' products/services;

As GrainCorp has the majority of up-country and port storage, AgForce would expect that ADM would continue to operate these facilities in a similar manner, i.e. offering warehousing services to producers and traders. AgForce seeks strong assurance from ADM that they will continue to offer this service to the market. As long as the service continues, from a competition point of view AgForce does not believe it would fundamentally change.

In Queensland, GrainCorp also has an exclusive contract with Aurizon to transport grain on rail. However the contract does allow GrainCorp to subcontract services to other traders/companies when they don't require a service; however it is at the discretion of GrainCorp. AgForce would be supportive of this to continue if and when ADM completes the takeover. However there is no other train service provider available in Queensland at this time, therefore no other marketer or trader could offer any competition to this service.

There are only two other marketers or traders that can offer bulk storage, however nowhere near the scale to what GrainCorp can currently offer. As a result this is one of the biggest impediments to competition as producers and trader's ability to get access to grain that is stored in GrainCorp's facilities. Anecdotally AgForce has been advised that due to GrainCorp's inefficient systems many other companies have missed shipping deadlines, and there is little to no recourse for these companies to hold GrainCorp accountable.

AgForce seeks assurance from ADM that these practices will not continue if and when the takeover is complete, and that the ACCC provides a mechanism of accountability if evidence shows similar behaviours.

c. Its capacity and/or ability to expand supply; and

There is no evidence there is capacity to expand supply as there is only a certain amount of grain in the system. However ADM could potentially increase efficiencies in the supply chain. As mentioned numerous times, one impediment to competition is traders and producer's ability to get grain out turned from a GrainCorp facility when booked.

This is affecting other trader's ability to accumulate grain in time to meet shipping deadlines and as a result demurrage charges are often charged and in some cases a ship will leave empty. While these instances are not totally attributable to GrainCorp, for example truck availability and road restrictions play a role; accessing grain when required is certainly a problem.

Therefore with accountability and efficient systems implemented by ADM, they would be able to increase the flow of grain through the supply chain. This would have a significantly positive effect beginning from up country storage availability and ships being loaded on time.

d. Its ability (together with other competitors) to provide a competitive constraint against any attempt by the merged firm to raise prices (having regard to the ease with which customer can switch suppliers).

The Queensland market is used to what has developed as a monopoly regarding GrainCorp, with little choice for producers in particular for warehousing grain. Therefore short of building their own storage facilities (which many have already done) producers (and many traders) have to pay what GrainCorp charge. Therefore we believe that this situation would not change significantly with the merged entity.

Again AgForce seeks assurances from ADM that they would have a fair and transparent pricing structure, and to continue to offer warehousing services.

6. Please describe any barriers to entry a new supplier wishing to commence grain trading and marketing services in Australia may face. Please comment on:

a. Capital costs and length of time necessary for entry;

In some cases the barriers to entry for a new supplier wishing to commence grain trading in Queensland are not significant. They can use GrainCorp's storage facilities and to a lesser extent AWB Grain Flow's where appropriate (as they only have 4 sites in Southern Queensland).

However due to the significant problems surrounding accessing grain once it is in the bulk handling storage system, this is fast becoming a very large barrier to entry for new entrants. Therefore significant capital costs would be required to build an accumulation and storage facility, which is often difficult for new business to raise enough capital to do this.

b. Access to key assets;

GrainCorp currently own all the port facilities in Queensland, and have provided open access to others to use. AgForce seeks strong assurances from both ADM and the ACCC that free and open access to ports will be continued and any breaches are met with significant penalties.

c. *The ease with which customers can switch suppliers;*

Customers can switch suppliers relatively easily, as the trading market is quite competitive with many different players.

d. *Any regulatory barriers; and*

There are basically no regulatory barriers in the grain market in Queensland and Australia. AgForce supported, through Grain Producers Australia, the introduction of a national oversight body, with one of their function being to ensure grain quality leaving Australia, and the integrity of exporters. AgForce believed this would assist in facilitating fair competition in the market. However the Federal Government did not support a national oversight body and therefore there is currently no government regulation of any kind.

e. *Any other factors which you may consider are relevant to barriers to entry.*

Not at this time.

The supply of up-country storage and handling services

Geographic Market

7. *The ACCC has previously found that competition for the supply of up-country storage and handling services generally occurs in state based markets, including because farmers are typically able to store grain at multiple points along the supply chain. Please consider the following:*

a. *Whether you consider storage and handling service providers compete in state-based markets; or whether competition takes place within wider or narrower regional markets; and*

There is currently little to no competition in the storage and handling section of the market in Queensland. Regarding bulk storage there is only one other significant provider, AWB Grain Flow, who only have 4 sites in Queensland and of which, are all located in Southern Queensland.

However, again AgForce seek very strong assurances from the merged entity that they will continue to offer warehousing facilities to the market.

We would consider that due to the strong demand domestically in Queensland, there would be little competition from other states for grain in the bulk handling system. Generally if grain is not consumed by the domestic market it is exported.

- b. *Whether (and if so, to what extent) ADM (including its related entity Toepfer) and GrainCorp compete for the supply of up country storage and handling services.***

As mentioned previously ADM and GrainCorp do not compete for the supply of up country storage and handling services, as GrainCorp basically have a monopoly on this section. AgForce believe that if ADM complete the takeover of GrainCorp, the competition for up country storage and handling services will remain unchanged. Provided ADM continue to offer these services.

Competition Factors

- 8. Do you consider that the proposed acquisition will lead to concerns regarding access to up-country storage and/or port terminal services, and if so why? IN answering this question, please consider the following:**
- a. The economic incentives for the merged entity to provide third party access to its upcountry storage facilities, and whether the amalgamation of ADM's and GrainCorp's grain trading and marketing operations would alter these incentives; and**

AgForce does not have major concerns regarding access to up country storage facilities under the merged entity. However, again AgForce seek strong assurances from the merged entity that they will continue to offer these services to the market.

There are sufficient economic incentives for the merged entity to continue access to up country storage facility. However AgForce seek assurance from the merged entity that open and free access will continue, as this service is vitally important to both producers and traders.

AgForce does not believe that the amalgamation of the trading and marketing operations of ADM and GrainCorp should affect the incentives. As far as AgForce is aware GrainCorp currently run the storage and handling part of the business almost as if it is a separate entity. However we have no knowledge of how ADM intend to run the business, and seek assurance form ADM they will continue to offer open and free access, to both up country storage and port facilities.

- b. What degree of access grain traders and marketers have to independent and on-farm storage options, and whether these present a strong competitive alternative to GrainCorp's storage and handling network.**

Grain traders and marketers do have limited access to independent and on farm storage facilities. Also based on anecdotal reports, on farm storage is increasing due to the service provided by GrainCorp. Also some of the larger and more export orientated traders are building their own storage facilities as they cannot rely on accessing their grain when they need to.

As mentioned previously there is currently no other storage facilities that compare to the capacity of GrainCorp's. Therefore there isn't really a competitive alternative to GrainCorp's storage and handling network.

There are many small depots, which GrainCorp either no longer use or rarely use for various reasons. While AgForce is not aware of ADM's strategy regarding these sites we believe that there would an opportunity for a third to buy/use/lease these sites if ADM choose not to use them. Which could increase competition and access for marketers/traders and producers storage options.

The supply of port terminal services

- 9. The ACCC notes that GrainCorp currently operates seven export terminals and ADM has an interest in the Queensland Bulk Terminal through Willmar Gavilon (as described in Attachment A). The ACCC has previously considered state-based markets for access to port terminal services. Do you consider that this market definition is appropriate, or do participants for the supply of port terminal services compete across wider or narrower geographic region(s)?**

Generally grain grown in a state will be exported from a port in that state; however this is not *always* the case. For example as mentioned previously sometimes sunflower seeds will be transported from central Queensland to Newcastle for processing, also if sorghum is being sought for export out of Queensland some of it is often sourced from Northern New South Wales.

However for export grain AgForce believe that the grain would generally be exported from that port zone. For example a Queensland trader may be fulfilling a contract with a buyer from the Middle East, and the trader sources all the grain from say Victoria and the grain will then be exported from Geelong Port.

AgForce believe that it would be very unlikely that a Queensland trader would source grain from Victoria and then have it transported to Port of Brisbane to be exported from the Port Of Brisbane, for example.

It also must be noted that Queensland Bulk Terminal (QBT) is not located within the Port of Brisbane boundary. Therefore any grain exported via QBT still has to use the GrainCorp facilities at port.

Geographic Market

- 10. The ACCC would also be interested in comment on:**
- a. *Whether the proposed acquisition is likely to have an effect on competition for the supply of port terminal services.***

As mentioned previously GrainCorp is currently the only supplier of port terminal facilities in Queensland. Therefore the acquisition is not likely to affect competition in the short term. However this is of great concern to AgForce and we seek very strong assurance from both ADM and the ACCC that ADM will continue to allow free and open access to port facilities.

There are currently three ports in Queensland that have the capabilities of handling grain, Fisherman's Island (Port of Brisbane), Mackay and Gladstone both located in central Queensland. All three of these grain facilities are owned and operated by GrainCorp.

With the abolition of the Wheat Export's Australia earlier this year, port access regulation is now under the jurisdiction of the ACCC. Initially this news was not welcomed by industry as it is felt the ACCC does not have sufficient authority and power; nor the willingness to peruse companies who are not providing free and open access.

AgForce is seeking very strong assurance from the ACCC that companies not allowing free and open access would be met with swift and significant action, which would deter future breaches.

b. The number, capacity and capability of alternative suppliers of port terminal services which would compete with the merged firm.

In Queensland there are no alternative suppliers of port terminal services.

c. The likelihood of new entry in the supply of port terminal services and the impact that this would have on competition.

AgForce believe that it is highly unlikely that there would be a new entry in the supply of port terminal services, for the following reasons:

- The ports are already almost at capacity (without significant expansion) due to the demand of coal, therefore there is no room for a new facility;
- The capital investment required to build new facilities is significant which makes it unviable for the majority of business;
- There is little interest from the port operators in agricultural commodities, due to their seasonality. Coal for example is a 24/7 operation and much more reliable.

Other Issues

11. Please provide any other information that you consider may be useful to the ACCC's assessment of the proposed acquisition.

AgForce also has concerns about what will happen to sites either earmarked to be closed or already closed. Some of these are considered hazardous due occupational health and safety issues. If ADM choose to close sites, without selling/leasing to other possible users (or being unable to find buyers), then AgForce seeks very strong assurances these will not become eyesores and that plans will be developed with the local community for mothballing or destruction – and guarantee these will be carried out.

ADM need to be aware of the historical significant of these sites to producers in the local community, and that they are an important landmark to the community. The vast majority of these sites were built by growers many years ago and plans to close or sell sites should be handled in conjunction with the community and sensitivity.

AgForce would also like to raise another concern regarding information. A foreign company will now have access to the entire Australian east coast crop data, which has not happened before. While we have no specific objections of a foreign entity purchasing GrainCorp it is not clear how or if ADM having this information will affect the Australian market and therefore producers.

Should you require any further information or have any questions regarding our submission please contact me or Nina Murray, Grains Policy Director on . or

Yours sincerely

Wayne Newton
AgForce Grains President