

# Chapter 4

## Conclusion and recommendations

4.1 The purpose of this interim report has been threefold:

- first, to publicise the extent of cross-ownership in the Australian grain handling market and the anti-competitive harm that Arthur Daniel Midland's (ADM's) proposed takeover of GrainCorp would have on the market;
- second, to raise concerns that this ownership structure, and these potential anti-competitive impacts, have not been adequately considered by Australia's regulators; and
- third, to draw attention to ADM's poor record as a corporate citizen and the low level of trust that Australian grain growers have in ADM.

4.2 The current cross-ownership arrangements in the Australian grain handling market were not properly considered in the Australian Competition and Consumer Commission's (ACCC) informal review of the takeover bid. The committee is concerned that the ACCC did not have the necessary expertise to undertake a full and proper review and did not obtain independent expert advice or assistance. It is troubled that ACCC officials could not advise the committee whether the ACCC review had examined:

- (a) Wilmar International's relationship with Goodman Fielder and ADM's interest in Goodman through its holding in Wilmar; and
- (b) whether Cargill would seek to take over the 60 per cent share in Allied Mills currently held by GrainCorp if ADM's acquisition of GrainCorp is successful, or the implications for competition in the market if this occurs.

4.3 The committee believes that the ACCC should revisit ADM's proposed bid in light of the evidence raised in chapters 2 and 3 of this report. The committee reiterates that it intends to invite the Chairman of the ACCC to give evidence at a public hearing later in 2013 to explain why the ACCC's review was so restricted in its scope and analysis.

### Recommendation 1

**4.4 The committee recommends that the Australian Competition and Consumer Commission reopen its informal review of Archer Daniels Midland's proposed acquisition of GrainCorp. The review should consult independent expert advice to determine whether there will be a substantial lessening of competition under the new cross-ownership arrangements in the Australian grain handling market if the ADM takeover proceeds.**

4.5 The committee is encouraged that the Foreign Investment Review Board (FIRB) has recognised the potential revenue implications from foreign takeovers. It is also confident that FIRB will take into account ADM's chequered record of corporate governance.

**Recommendation 2**

**4.6** The committee recommends that in making its recommendation on the proposed takeover of GrainCorp to the Treasurer, the Foreign Investment Review Board consider the following matters:

- the evidence from the committee's public hearing hearings in June and July 2013, as well as the evidence from its proposed public hearing later this year;
- the potential loss of revenue to the taxpayer from ADM's tax minimisation strategies should the takeover proceed;
- the potential for the takeover to distort the capital market to the detriment of Australian farmers and Australia's economy due to food security concerns; and
- the need to protect the public interest and the interests of grain growers.

**Further inquiries**

**4.7** The committee flags the likelihood that it will recommend to the Senate that the inquiry be re-adopted in the new parliament. Assuming that occurs, the committee intends to take further evidence at a public hearing from Cargill, Glencore, Toepfer International and the relevant financial representatives from ADM.

**Senator the Hon. Bill Heffernan**

**Chair**