

Issues Paper

Review of the
Grain Marketing Act 2002

5 December 2007

Economic Regulation Authority



WESTERN AUSTRALIA

A full copy of this document is available from the Economic Regulation Authority web site at www.era.wa.gov.au.

For further information, contact:

Ms Julie Harman
Economic Regulation Authority
Perth, Western Australia
Phone: (08) 9213 1900

© Economic Regulation Authority 2007

The copying of this document in whole or part for non-commercial purposes is permitted provided that appropriate acknowledgment is made of the Economic Regulation Authority and the State of Western Australia. Any other copying of this document is not permitted.

Foreword

The State Government of Western Australia has requested the Economic Regulation Authority to undertake an inquiry into the operation and effectiveness of grain marketing in Western Australia, as prescribed by the *Grain Marketing Act 2002 (Act)*. A statutory review of the Act was scheduled for 2007.

In accordance with the Terms of Reference, the Authority will review the Act, focussing on:

- the effectiveness of the operations of the Grain Licensing Authority (**GLA**);
- the need for the continuation of the functions of the GLA; and
- an analysis of the net public benefit of:
 - the export restrictions on ‘prescribed grain’ (barley, canola and lupins);
 - the grain pools and cash acquisitions of prescribed grains;
 - licensing requirements and fees; and
 - alternative regulatory models that could be applied in Western Australia.
- the implications of relevant changes in grain marketing in Australia and internationally.

The Authority, in its investigations, will consider the roles and responsibilities of industry participants and examine the costs and benefits of alternative regulatory models. The approaches used in other jurisdictions will inform the inquiry. In making its recommendations, the Authority will consider the impacts of any recommendations on existing grain growers and operators, and on the Government’s social and economic policy objectives.

The purpose of this Issues Paper is to provide background information and outline the issues to be investigated. It is intended to assist stakeholders to understand the nature of the issues under review and to facilitate public debate.

Throughout the paper questions are raised, highlighted in boxes, seeking input from interested parties. Respondents should feel free to comment on any of these issues, or other issues they consider relevant to the inquiry. Submissions should be submitted no later than 18 January 2008 to grainmarketing@era.wa.gov.au.

or addressed to:

Review of the *Grain Marketing Act 2002*
Economic Regulation Authority
PO Box 8469
Perth Business Centre
PERTH WA 6849

Section 1.5 of this paper provides further information regarding the process for making a submission.

Interested parties and stakeholders will have further opportunity to make submissions following the release of the Authority’s Draft Report on the inquiry, expected to be released in March 2008. The Final Report for the inquiry is due to be delivered to Government by 27 June 2008.

I encourage interested parties to consider the terms of reference and the matters raised in this Issues Paper and prepare a submission to the inquiry.

LYNDON ROWE
CHAIRMAN

Contents

Foreword	i
Contents	iii
1 Introduction	1
1.1 Terms of Reference	1
1.2 Background to the Inquiry	2
1.3 Structure of Issues Paper	3
1.4 Review Process	3
1.5 How to Make a Submission	3
2 Grain Industry Overview	5
2.1 The WA Grain Market	5
2.2 Storage, Handling and Freight	7
2.3 Research and Development	8
2.4 Export Markets	8
2.4.1 Comparative export prices	10
2.5 Recent Domestic and International Changes in Grain Marketing	11
2.5.1 Domestic Changes	11
2.5.2 International Changes	12
3 Has the Grain Licensing Authority Been Effective?	13
3.1 Role and Purpose of the GLA	13
3.2 GLA Decisions	13
3.3 Impact of the GLA	18
3.3.1 Special Export Licence Volumes	19
4 Are Current Restrictions on Grain Marketing Effective?	22
4.1 Restrictions on Barley, Canola and Lupin Marketing	23
4.1.1 Review of 'single desk' studies	24
4.2 Grain Pools	25
4.3 Licensing Requirements	26
5 Would an Alternative Regulatory Model be More Effective?	28
5.1 Background	28
5.2 Regulatory Options	28
5.2.1 Retain the GLA framework	28
5.2.2 Adopt a 'light-handed' regulatory approach	29
5.2.3 Full deregulation	30
Appendices	32
Appendix 1: Terms of Reference	33
Appendix 2: Grain Prices and Market Share	34
Appendix 3: Summary of Issues	38
Appendix 4: Glossary	39

1 Introduction

On 29 November 2007, the Treasurer of Western Australia gave written notice to the Economic Regulation Authority (the **Authority**) to undertake an inquiry into the operation and effectiveness of grain marketing in Western Australia, as prescribed by the *Grain Marketing Act 2002* (the **Act**). A statutory review of the Act was scheduled for 2007.

1.1 Terms of Reference

This inquiry has been referred to the Authority under Section 38(1)(a) of the *Economic Regulation Authority Act 2003*, which provides for the Treasurer to refer to the Authority inquiries on matters related to an industry that is not a regulated industry as defined in the Authority Act.¹

A full text of the Terms of Reference is provided in Appendix 1.

In accordance with the Terms of Reference, the Authority is to consider four key matters:

- the effectiveness of the operations of the Grain Licensing Authority;
- the need for the continuation of the functions of the Grain Licensing Authority;
- other matters that could be relevant to the operation and effectiveness of the Act, including (but not limited to) an analysis of the net public benefit of:
 - restrictions on the export of ‘prescribed grain’ (barley, canola and lupins);
 - an assessment of the operation of pools and cash acquisitions of prescribed grains by the main export licence holder (Grain Pool Pty Ltd);
 - licensing requirements governing the accumulation and trade of prescribed grains for export;
 - fees and charges applying to licensing; and
 - alternative regulatory models that could be applied in Western Australia; and
- the implications of relevant changes in grain marketing in Australia and internationally.

In undertaking the inquiry, the Authority recognises section 26 of the *Authority Act*, which requires the Authority to have regard to:

- the need to promote regulatory outcomes that are in the public interest;
- the long-term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets;
- the need to encourage investment in relevant markets;
- the legitimate business interests of investors and service providers in relevant markets;
- the need to promote competitive and fair market conduct;
- the need to prevent abuse of monopoly or market power; and
- the need to promote transparent decision making processes that involve public consultation.

¹ Section 38 of the *Economic Regulation Act 2003* provides for the Treasurer to refer to the Authority inquiries on matters related to other industries (i.e. other than water, gas, electricity and rail).

1.2 Background to the Inquiry

Grain marketing services, as well as storage and handling services, have traditionally been provided by Statutory Marketing Authorities (**SMA's**). During the 1990s, concerns regarding the appropriate pricing of these services led to reviews of grain marketing arrangements and the corporatisation or privatisation of these SMA's. The National Competition Policy (**NCP**) set the broad policy framework for reforms of the grain industry in Australia.

All States conducted reviews of their State grain marketing legislation in line with NCP principles.

- The *Barley Marketing Act 1993*, which granted vesting rights (often referred to as “single desk” rights) to the Australian Barley Board for domestic and export marketing of barley from Victoria and South Australia, was reviewed in 1997. This review found that there was no case for the continuance of single desk rights. The Victorian and South Australian domestic markets were fully deregulated in 1999, with the Victorian export barley market deregulated in 2001.
- South Australia further reviewed export marketing arrangements in 2003, resulting in the deregulation of barley export marketing in 2007.
- The NSW Grains Board had single desk marketing rights (for both domestic and export markets) for barley, canola, sorghum, oats, safflower, sunflower, linseed and soybean. A review of the *Grain Marketing Act 1991* was undertaken in 1999. Subsequent to this review, the Board was found to be financially insolvent. In October 2000, Grainco Australia bought the single desk rights (for export marketing of barley, sorghum and canola and for domestic marketing of malting barley) for the period to 2005, when the NSW grain market was fully deregulated.
- In Queensland the domestic market was deregulated in 1999. The remaining regulation pertaining to the export barley market was removed in 2002.
- In Western Australia (WA), deregulation of the domestic market occurred in 1997.² A NCP review of the *Grain Marketing Act 1975* (in 1999)³ recommended the retention of a single export desk (namely a privatised Grain Pool) for barley, canola and lupins, with the establishment of a licensing authority to license bulk grain exports.

Under the *Grain Marketing Act 2002*, the regulatory and marketing functions for prescribed export grains (barley, canola and narrow leafed lupins) were separated in WA to meet NCP requirements. The Grain Licensing Authority (**GLA**) was established as the regulatory authority for prescribed grains in WA. The Grain Pool Pty Ltd was granted the main export licence. The GLA was given the authority to grant special export licences (for bulk exports) to other grain marketers. The Act continued to allow unrestricted export of prescribed grains in bags and containers.

It is within this context of grain market reform that the Authority has received the Terms of Reference to undertake an inquiry and provide advice on the ways in which the effectiveness of grain marketing in WA can be enhanced.

² *Grain Marketing Amendment Act 1997*.

³ Department of Agriculture WA (1999), *Legislation Review of the Grain Marketing Act 1975*.

1.3 Structure of Issues Paper

The structure of the Issues Paper is as follows:

- Chapter 2 provides an overview of the grain industry;
- Chapter 3 discusses the effectiveness of the GLA;
- Chapter 4 discusses the factors identified in the Terms of Reference that impact on the effectiveness of grain marketing in WA; and
- Chapter 5 presents a summary of alternative regulatory models for grain marketing.

1.4 Review Process

The Authority intends to follow the following timetable in undertaking this review.

- Submissions on the Issues Paper are due by 18 January 2008.
- A Draft Report is expected to be published in March 2008 and submissions invited.
- In accordance with the Terms of Reference, the Authority must present its Final Report to Government by 27 June 2008.

The Authority will also be consulting with its Consumer Consultative Committee during the course of the inquiry.

In accordance with section 45 of the ERA Act, the Authority is acting through the Chairman and members in conducting this inquiry.

1.5 How to Make a Submission

Submissions on any matters raised in this Issues Paper or in response to any matters in the Terms of Reference should be in written form and electronic form (where possible) and addressed to:

Review of the *Grain Marketing Act 2002*
Economic Regulation Authority
PO Box 8469
Perth Business Centre
PERTH WA 6849

Email: grainmarketing@era.wa.gov.au
Fax: (08) 9213 1999

Submissions must be received by 18 January 2008.

In general, submissions from interested parties will be treated as in the public domain and placed on the Authority's web site. Where an interested party wishes to make a confidential submission, it should clearly indicate the parts of the submission that are confidential. For more information about the Authority's submissions policy, see the Authority's web site.

The receipt and publication of a submission shall not be taken as indicating that the Authority has knowledge either actual or constructive of the contents of a particular submission and, in particular, whether the submission in whole or in part contains information of a confidential nature and no duty of confidence will arise for the Authority in these circumstances.

Further information regarding this inquiry can be obtained from:

Ms Julie Harman
Manager Strategic Issues
Economic Regulation Authority
Ph (08) 9213 1900

Media enquiries should be directed to:

Mr Paul Byrne
Byrne & Byrne Corporate Communications
Ph (08) 9385 9941
Mb 0417 922 452

2 Grain Industry Overview

2.1 The WA Grain Market

As discussed in Chapter 1, over the past decade the Australian domestic and export grain market has been gradually deregulated. Currently only SA and WA have State legislation which regulates grain exports. In comparison, wheat exports from all States of Australia continue to be regulated by Federal legislation.

Under the *Grain Marketing Act 1975*, the Grain Pool of WA (**GPWA**) was established as the sole marketing authority for WA's barley, canola and (narrow leaved) lupin production, known as 'prescribed grains'. GPWA was also responsible for granting permits (with specified quantities and uses) to other grain traders for the export of prescribed grains. A further function of the GPWA was to facilitate or participate in the commercial development and use of grain varieties.⁴

A Ministerial review of the WA grains industry was undertaken in 1995.⁵ The key recommendations were:

- full deregulation of the domestic market;
- deregulation of the export trade in grain value-added products and of exports of prescribed grains in containers or bags;⁶
- deregulation of exports of prescribed grains to destinations other than designated core markets of the Grain Pool; and
- linseed and canola should cease to be prescribed grains.

Following this review, the *Grain Marketing Amendment Act 1997* provided statutory independence to the GPWA, and with respect to prescribed grains, enabled deregulation of the domestic market, exports of value-added grains, exports in containers and bags,⁷ and removed linseed from the list of prescribed grains.

A Departmental review of the *Grain Marketing Act 1975* was undertaken in 1999 as required under the NCP framework. The review recommended retention of the single export desk (GPWA) for barley, canola and lupins, subject to the establishment of the GLA to license value-added grain exports and to license bulk grain exports that were not in competition with GPWA exports.⁸

Under the *Grain Marketing Act 2002* (the **Act**), the regulatory and marketing functions for bulk export of prescribed grains (barley, canola and lupin) were separated to meet NCP requirements. The GLA was established as the regulatory authority for prescribed grains in WA and was given the authority to grant special export licences (SEL's) for bulk exports. The legislation also formalised existing practice and specified unrestricted exports for prescribed grains in bags and containers with a holding volume of 50 tonnes or less. Under the Act, grains can be added to or removed from the list of prescribed grains.

⁴ *Grain Marketing Act 1975*, Part II, Part III, s.22A.

⁵ CIE 1995, *Grain Marketing in Western Australia: A Blueprint for the Future*.

⁶ Value adding is any process that changes the physical characteristics of the grain.

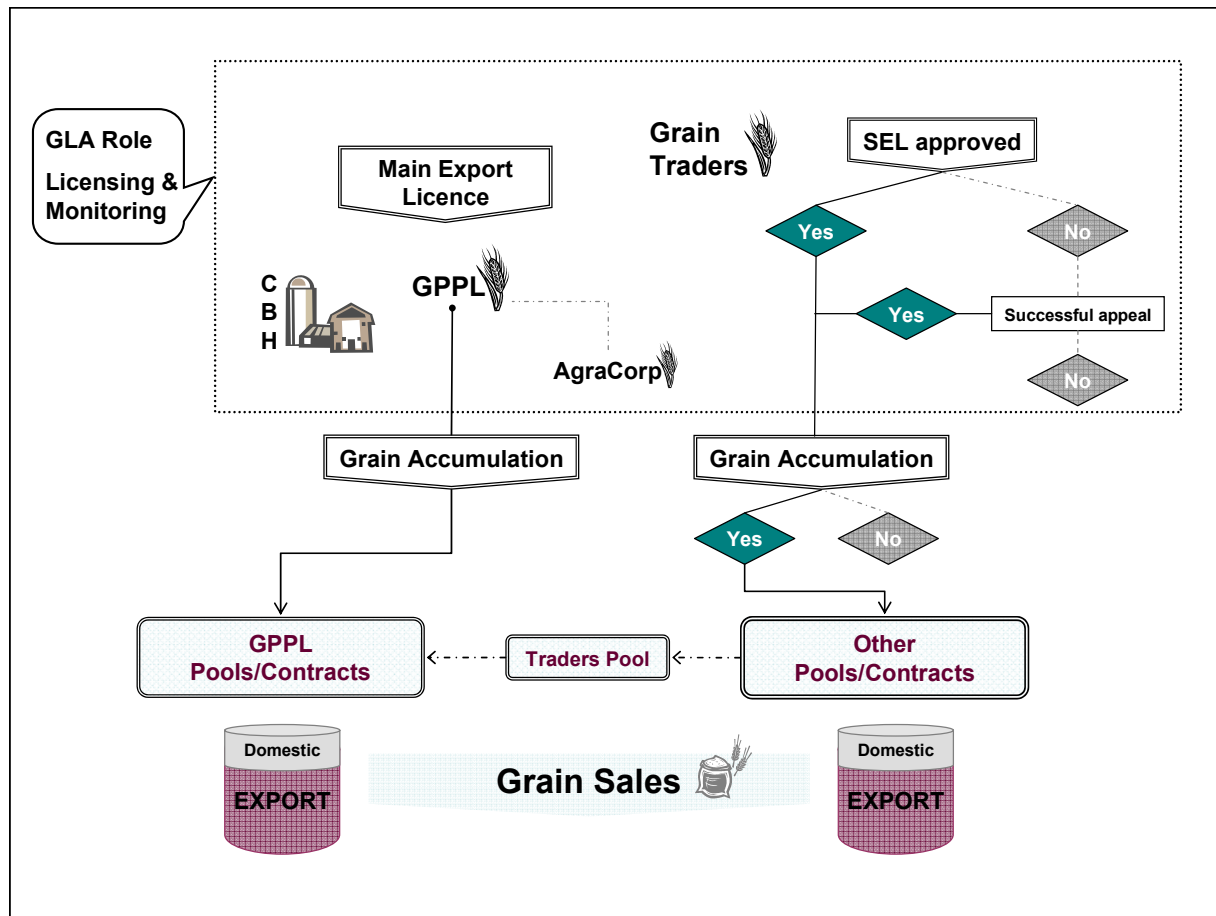
⁷ Allowed under a permit system administered by the Grain Pool, however exports to Japan and Thailand were not permitted due to existing contractual arrangements. Ref: Grain Marketing Amendment Bill, *Second Reading*, October 16, 1997.

⁸ Department of Agriculture WA 1999, *op.cit.*

On enactment of the Act, the assets of the GPWA were transferred to the Grain Pool Pty Ltd (**GPPL**). In associated legislative changes, the GPPL became a wholly-owned marketing subsidiary of (the grower-owned) Co-operative Bulk Handling Ltd (**CBH**) on 1 November 2002. The GPPL holds the main export licence (**MEL**), which came into effect from enactment of the Act. As the MEL holder, the GPPL has an obligation under the Act (providing the grain complies with standards set by the GPPL) to buy all prescribed grain offered to it and on terms that are consistent with other similar grain sales.

The structure of the WA bulk export grain market is summarised in Figure 1.

Figure 1 WA Bulk Export Grain Market



There are three main methods by which growers can market their grain:

- 1) forward contract the grain by way of a multigrade or single grade fixed price for a proportion of the crop;⁹
- 2) sell for the cash price on offer at the time of harvest or after warehousing;¹⁰ and/or
- 3) deliver the grain into a pool to receive an averaged price, typically over a 15 month time period.¹¹

⁹ A forward contract allows the seller to contract for future delivery of a specific quantity and quality of a commodity at a guaranteed price.

¹⁰ With cash (spot) sales, grain is sold to a trader at a specified quality and quantity of grain on a particular day and the seller receives the traders daily price. Full payment is typically received within 30 days.

As the marketing subsidiary of CBH, GPPL markets around three million tonnes of grain annually or around 90 percent of prescribed grain exports from WA. AgraCorp Pty Ltd is a trading subsidiary of GPPL and offers non-pool selling options (i.e. cash and contract prices) for canola, barley and lupins. These grains can be transferred between AgraCorp and GPPL. AgraCorp also trades in grains not prescribed in WA (including wheat, oats, and chickpeas). AgraCorp is the largest individual grain supplier to the WA domestic market.¹²

In addition, there are a number of other traders active in the WA market (e.g. ABB Grain, Elders) that accumulate grain for domestic and export sales. Once a trader has physically accumulated grain, the trader can choose to export the grain in bulk under an approved SEL, onsell to other SEL holders, export in bags or containers, sell the grain domestically or to the GPPL via the Traders Pool.

2.2 Storage, Handling and Freight

Until the late 1990's, the grain storage, handling and transportation systems in each State were operated by government monopolies or State-based grower co-operatives. As a result of reforms under the NCP framework, State legislation enabled participation by new entrants in the storage and handling sector. However, the natural monopoly aspects of the infrastructure (including port terminals)¹³ have resulted in three companies retaining control of the majority of grain infrastructure in Australia. ABB Grain (formerly the Australian Barley Board), CBH and GrainCorp control around 670 receival points (silos) and 20 export port terminals across Australia.¹⁴

In WA, CBH (through its subsidiary BulkWest) has a monopoly on storage and handling, including facilities at the four major grain ports. The combined storage capacity of these facilities is 3.3 million tonnes, with throughputs of around 9.5 million tonnes per year.¹⁵ Shipping services for bulk grain are also dominated by CBH, with limited competition for the service of packing for containerised grain exports.¹⁶

Wheat is the major throughput in the grain handling and transport system, accounting for around 80 per cent of grain exports.¹⁷ In WA, around 70 per cent of grain is transported via rail, with the remainder transported by road. Depending on the size of the harvest, grain comprises around 15 per cent of the total freight volume (50 million tones) on the WA rail network.¹⁸ The State Government is currently conducting a review of the WA grain freight network, with a report expected in late 2007.¹⁹

Given the recent partial deregulation of wheat exports (via containers only), traders in all states can now export any grains via containers. If bulk wheat exports were deregulated by the

¹¹ Department of Agriculture WA, Barley marketing and economics, website information, http://www.agric.wa.gov.au/content/FCP/CER/BAR/ME/barley_markecon.htm

¹² CBH Group, Annual Reports, various.

¹³ Due to geographic advantages regarding grain transport (rail and road), more than 95 per cent of all export grain grown within a port zone is exported via the corresponding port terminal. Reference: Hoffman T., Stanley P. & N. Matthews 2004, *Single Desk and the Grain Supply Chain: A Study of Power Relationships*.

¹⁴ AWB 2007, Submission to the Wheat Export Marketing Consultative Committee, Feb 2007.

¹⁵ ABB Grain 2005, *Ensuring A Profitable And Sustainable Agriculture And Food Sector In Australia*, Submission to the Agriculture and Food Policy Reference Group.

¹⁶ ITS Global 2007, *Grain Marketing Transition Factsheets: Competition in the Domestic Supply Chain*, Prepared for AWB by ITS Global, April 2007.

¹⁷ Meyrick and Associates 2006, *Appendix to Infrastructure Action Agenda: Supply Chain Case Studies*, Prepared for the Australian Logistics Council, Final May 2006.

¹⁸ Economic Regulation Authority 2007, database.

¹⁹ Department for Planning and Infrastructure 2006, Annual Report 2005-06. Note that through the Grains Infrastructure Group, the State Government and industry are engaged in a review of the WA grain freight network. A key part of this review is considering the future viability of the narrow gauge rail system that is used solely for the transport of grain.

Federal Government, CBH would be in a position to capture the majority of WA wheat exports as CBH is the major grain trader in WA (via GPPL and AgraCorp) and currently controls the grain handling and storage facilities.²⁰

Access to grain port infrastructure is regulated in South Australia (**SA**) and Victoria. In South Australia, the Essential Services Commission of South Australia (**ESCOSA**) is responsible for determining access and pricing regimes (price monitoring); while in Victoria the Essential Services Commission (**ESC**) regulates services at two of the three grain port terminals (namely Portland and Geelong) under an Access Undertaking (the third (unregulated) port terminal, MPT, handles around one-third of Victorian grain exports).²¹

As part of the Council of Australian Governments (COAG) agreements (namely the Competition and Infrastructure Reform Agreement 2006), each state is currently reviewing the regulation and effectiveness of competition at major ports (and the associated handling and storage facility operations). These reviews are designed to identify and then implement necessary reforms to ensure:

- economic regulation of significant ports (where it is warranted) conforms to a consistent national approach; and
- that port service competition is promoted.²²

2.3 Research and Development

Research and development (R&D) is currently coordinated by organisations such as the Grains Research and Development Corporation (GRDC), the Australian Oilseeds Federation and Pulse Australia. Grain producers fund these organisations through industry levies.²³

2.4 Export Markets

The key export markets for WA grain are:

- feed barley markets in Saudi Arabia, Japan and Kuwait;
- malting barley markets in China, Japan, South Korea and Columbia;
- canola markets in Pakistan and Japan; and
- lupin markets in Korea, Netherlands and Spain/Portugal.

WA is the major grain exporting State, accounting for around 50 per cent (by tonnage) of national grain exports in 2005/06.²⁴

Figure 2 illustrates that Western Australia's market share of Australian exports is greater than its relative production of barley, canola and lupins.

²⁰ CCI WA 2007, *Implications of Wheat Marketing Deregulation*, A Report Commissioned by AWB Limited. Note that historically CBH has provided AWB with its bulk handling requirements in WA.

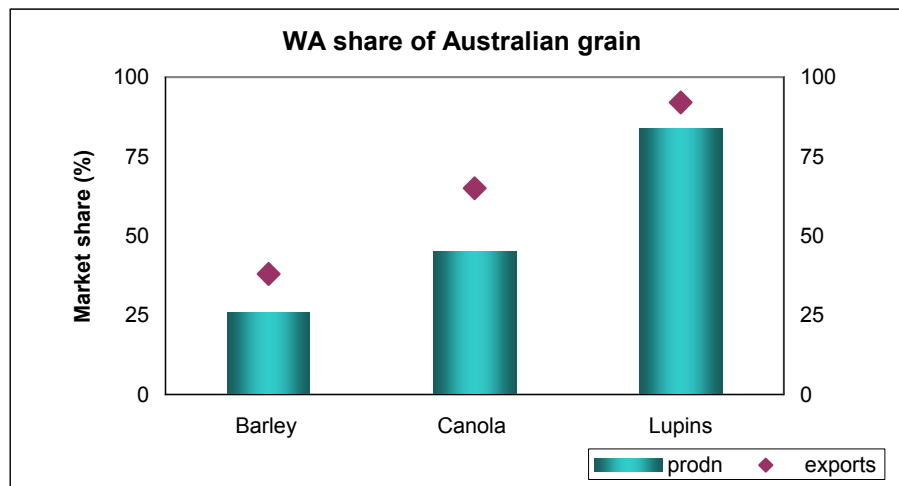
²¹ ESC 2006, *Grain Handling Access Regime: Grain Handling Regime Review – Final Report*, June 2006.

²² State of Queensland (Queensland Department of Transport) 2007, *Review of Current Port Competition and Regulation in Queensland*, Discussion Paper, prepared by Rail Ports and Freight Division Queensland Transport.

²³ For example, GRDC is funded by a levy equal to 0.99 per cent of net farm gate value. In WA this levy equated (in 2005-06) to around \$1.17 per tonne for feed barley, \$1.34 per tonne for lupins and \$3.00 per tonne for canola. Ref: Department of Agriculture WA, *Farm Weekly Budget Guide 2006*.

²⁴ Dept. of Agriculture and Food WA 2007, *Western Australia's Agri-food, Fibre and Fisheries Industries 2007*, Bulletin 4702; ABS 2007, *Selected Agricultural Commodities, Australia*, Cat No. 7112.

Figure 2 Grain Market Share 2005/06



Barley

The major exporters of barley are the European Union (EU), Australia, Ukraine and Canada. The EU and Ukraine have a geographic advantage over Australia when exporting to the Middle East, while Australia has an advantage when exporting to Japan and China.²⁵

WA and SA have historically accounted for more than 90 per cent of Australian barley exports. The GPPL and ABB Grain (the major grain traders in WA and SA, respectively) market their export barley under a joint venture, Grain Australia. In 2005/06, Grain Australia had a 29 per cent market share of world barley trade; consisting of an 18 per cent market share for ABB Grain and an 11 per cent market share for GPPL.²⁶

The majority of WA barley exports are destined for feed markets. An examination of the key WA feed barley markets, namely Japan and Saudi Arabia, shows that the volume of exports and the variation in market share are highly dependent on seasonal conditions. For further details on market shares, see Appendix 2.

Australia is the world's leading exporter of malting barley, accounting for around one third of world exports. China has been the world's largest malting barley importer for more than a decade.

Although the majority of barley grown in major exporting countries is of malting varieties, not all malting barley grown is graded as malting quality, given the specific requirements for malting and brewing,²⁷ as well as seasonal conditions. The selection rate for malting barley in Australia averages around 36 per cent of the crop, which is the highest among major exporters (e.g. the EU has a selection rate of 20–25 per cent while Canadian selection rates average 16 per cent).²⁸

²⁵ Agriculture and Agri-food Canada 2006, *Bi-weekly Bulletin*, Volume 18 Number 4. For 2004/05, grain freight rates from Canada to China averaged US\$40 per tonne compared to an average US\$30 per tonne for Australia to China.

²⁶ ABB Grain Ltd 2007, Results Briefing Six Months to 31 March 2007.

²⁷ The key factors are the protein content (acceptable range of 9.5–11.5 per cent), extraction rates, plumpness and germination.

²⁸ Agriculture and Agri-food Canada 2006, op. cit.

Canola

The canola export trade is dominated by Canada, with a global market share of around 70 per cent. Australia accounts for around 20 per cent of world canola exports, with WA the key exporting state. The majority (around 70 per cent) of Australian canola production is exported, primarily to Japan, Pakistan and the EU.

Canola is primarily valued for its oil content, with canola meal (or flour) as the by-product after the oil is extracted from the canola seed.²⁹ Higher international canola prices are supported by higher vegetable oil prices (partly led by strength in crude oil values),³⁰ higher soybean prices, and increased demand (particularly in the EU) for biofuels. Australian canola meal has around 20 per cent less protein than the US soybean meal,³¹ and so attracts a discount relative to soybeans. Over the past decade, the average export return for Australian canola has cycled around parity with Canadian canola exports.³²

Lupins

WA is the world's leading exporter of lupins. Lupin prices reflect their protein content and their value as an alternative legume crop to soybeans. Export lupin prices generally follow world soybean prices, with lupin prices discounted to US soybean meal values.³³

2.4.1 Comparative export prices

The Authority has provided an overview of grain export prices to assist in the assessment of the restrictions on grain marketing (see Appendix 2).

It would appear that major grain exporters capture short-term price increases due to seasonal conditions. For example, Australian exports traded at a premium to Canadian exports in 2002/03 when there was a global supply shortage of barley.³⁴ Conversely in 2007, with a downgrading of the Northern Hemisphere barley harvest, Canada has been the dominant exporter and obtaining a relatively high market price (US\$311 per tonne (FOB)³⁵).

During the period 1997–2001, the average Australian price premium over prices received by Canadian and US exporters of feed barley to Japan was US\$14 per tonne. However, over the period 2002–2006, this premium had declined to an average US\$1 per tonne.

The narrowing of the price premiums may be due to several factors, including:

- a narrowing of the quality and consistency differential between Australian and Canadian/US barley exports; and
- changes to the buying policies of Japan. Prior to 2002, all feed barley imports into Japan were purchased through the Ministry of Food (the Japanese Food Agency). The introduction of a tendering process has resulted in a more transparent sales process.

²⁹ The Winnipeg Canola Exchange bases its contracts on a 40% oil contribution and 60% meal contribution per tonne of canola seed crushed. Also note relative canola oil and meal prices: - oil \$706 per tonne; meal \$117 per tonne (in-store Vancouver), November 2006; Ref: Agriculture and Agri-food Canada 2006, *Bi-weekly Bulletin*, Volume 19, Number 17, 30 Nov 2006.

³⁰ PROFARMER 2007, Bulletin September 2007

³¹ Australian Oilseeds Federation 2004, *Canola Meal – Limitations and Opportunities*.

³² Australian Bureau of Agricultural and Resource Economics (ABARE) 2007, 'Market acceptance of GM canola', *ABARE Research Report 07. 5*.

³³ Department of Agriculture WA 2004, Bulletin 4635.

³⁴ Schmitz A., Schmitz T.G. and R. Gray 2005, *The Canadian Wheat Board And Barley Marketing*.

³⁵ CWB 2007, 'Western Canadian malting barley in high demand', News release August 29 2007.

For canola, average export prices for Australian canola (non-GM) reflect parity with Canadian canola exports. The bulk of GM canola (primarily from Canada) is sold at very similar prices to conventional canola in most major canola markets.³⁶

2.5 Recent Domestic and International Changes in Grain Marketing

2.5.1 Domestic Changes

Recent and proposed changes to the Australian Wheat Board (**AWB**) are of note to this inquiry given the Act contains a provision if all export wheat restrictions were to be removed. A Federal Government review of Australia's wheat marketing arrangements resulted in the *Wheat Marketing Amendment Act 2007*. The subsequent changes in wheat marketing arrangements included:

- AWB International (**AWBI**), a wholly owned subsidiary of AWB Limited was to market the 2007/08 harvest (including management of the National Pool). Note that AWBI has historically marketed about 65 per cent of the national wheat crop.³⁷
- The Export Wheat Commission (EWC) replaced the Wheat Export Authority (WEA) in October 2007. The EWC has additional information-gathering and investigative powers. The EWC has responsibility for assessing applications for export permits from organizations other than the AWBI. This assessment is referred to the Minister for Agriculture, Fisheries and Forestry who has the power to direct the EWC to grant or refuse bulk export consents.
- Wheat exports in bags and containers have been deregulated, with exporters to comply with a quality assurance scheme which is administered by the EWC. In 2006/07, bags and containers exports accounted for 11 per cent of total wheat exports.³⁸
- The temporary transfer of the power of veto over bulk wheat exports (originally instituted in late 2006) to the Minister for Agriculture, Fisheries and Forestry (from AWBI) was extended to June 2008. A total of 31 contracts for bulk wheat exports (outside the AWB) have been approved for the 2007/08 harvest.³⁹
- Wheat growers were to establish a new legally separate entity to export bulk wheat from 1 March 2008.

In September 2007 the Wheat Export Marketing Alliance (which constitutes state farmers' associations) announced AusWheat as the proposed new grower-owned entity for managing the single desk from July 2008. Key responsibilities of AusWheat will include the control of the national wheat pool and export wheat sales, to be the receiver of last resort, to determine quality incentives and introduce contestable financial services.⁴⁰

The Federal Labor Government has proposed new wheat export arrangements, including the removal of monopoly export rights from the AWB. The WEA would grant accreditation to multiple exporters (including the AWB) and monitor export contracts. Exporters that meet financial requirements and comply with licence conditions will receive continuing accreditation for bulk wheat exports. These arrangements would be independently reviewed by 2010.⁴¹

³⁶ ABARE 2007, op. cit.

³⁷ Parliament of Australia 2007, Bills Digest no. 186 2006/07, *Wheat Marketing Amendment Bill 2007*.

³⁸ WEA 2007, Export Statistics 2006/2007.

³⁹ ABC Rural News 2007, 'Govt allows WA wheat company to export once', Posted Sept 17, 2007

⁴⁰ AusWheat 2007, Business Plan Australia Wheat Limited (AusWheat).

⁴¹ Rudd K. and K. O'Brien 2007, Australian wheat export marketing, Election 2007 Policy Document, October 2007.

2.5.2 International Changes

The global grain market has undergone significant changes over the past decade. With industry rationalisation and integration, five multinational agribusiness companies (Cargill, ADM, Bunge, Louis Dreyfus and Conagra) now account for around 80 per cent of the global grain market.⁴² The next largest traders (in terms of revenue) are the AWB and the Canadian Wheat Board (**CWB**). Canada has to date had export arrangements similar to Australia, although a major difference is that the Canadian government gives financial backing to the CWB in the form of initial pool payment, borrowing and export credit guarantees.

The CWB markets export wheat and barley (and domestic malting barley) on behalf of farmers in western Canada.⁴³ Together, the four western provinces produce around 90 per cent of Canada's wheat and barley production.⁴⁴ Given the large domestic feed barley market, CWB then markets less than 25 per cent of the western Canadian barley crop.

An industry Taskforce recently recommended a transition process from the CWB single desk to a competitive marketing environment for both barley and wheat by July 2013.⁴⁵ The Taskforce also recommended that the Government should act to resolve non-competitive grain handling industry behaviour and introduce measures to enhance rail competition.⁴⁶

Following a vote (in March 2007) by barley farmers in western Canada on the future role of the CWB, the Federal Cabinet enacted an amendment to the *Canadian Wheat Board Regulations*. This amendment would have harmonised grain marketing policy nationally and allowed western farmers to sell their barley independently from August 2007. The Federal Court subsequently ruled that removing the marketing restrictions via regulation was invalid and that new legislation (with Parliamentary approval) would be required to change the single desk export monopoly. On 30 August 2007, the Federal Government lodged an appeal against the Federal Court ruling.

On the export side, the market share of non-traditional grain exporters, such as Russia and the Ukraine, continues to increase, particularly for feed barley.

On the grain import side, Japan, Saudi Arabia and China (WA's primary barley markets) have substantially changed their grain purchasing methods. The tariff and quota system in Japan has been superseded by the simultaneous buy and sell (**SBS**) system. Under SBS, the Japanese Food Agency sells imported barley (and wheat) to domestic feed users at the same time that it buys the grain from overseas suppliers. Barley traders can now offer grain directly to buyers, with the tender process used to obtain the price and quantity. In Saudi Arabia, the Government continues to subsidise feed barley, although the subsidy is now fixed (at US\$40 per tonne) rather than accounting for the full difference between the domestic and international price. In China, private enterprises now play an active role in the grain trading business.

As internationally competitive grain markets have evolved, customer contracts have typically included more specific quality specifications and rigorous quality assurance requirements. It is expected that just-in-time shipments will become more prevalent in future trading, requiring improved supply chain efficiencies to deliver grain in an export-ready condition.⁴⁷

⁴² CWB 2006, Annual Report 2005/06.

⁴³ Although CWB does not have shareholders, 10 of the 15 members of the Board of Directors are elected by farmers.

⁴⁴ CWB 2006, Statistical Tables 2005/06.

⁴⁵ This date was adopted to reflect the deadline for the proposed implementation of new WTO rules on export competition (intended to end government financing and the underwriting of statutory marketing authorities).

⁴⁶ Technical Task Force On Implementing Marketing Choice For Wheat And Barley 2006, *Marketing Choice - The Way Forward*, Prepared by: Migie H., Bast M., Brindle B., Davies R., Groenewegen J., Johnson B. and P. Orsak, October 2006.

⁴⁷ McMullen, G. 2003, 'Prospects for grain marketing in 2010', *Proceedings of the Australian Postharvest Technical Conference*, Canberra, 25–27 June 2003.

3 Has the Grain Licensing Authority Been Effective?

3.1 Role and Purpose of the GLA

The GLA issues SEL's to exporters (other than the MEL) of prescribed grains (barley, canola and lupins). SEL's are granted for sales to a specified country and for a specified volume. The GLA is required to give reasons to the applicant when rejecting any bulk export licence application.

The purpose of the Act is to maximise the benefit of market competition while retaining any premium arising from use of a single desk type arrangement and the associated exercising of market power.⁴⁸ In granting a SEL the GLA is required to consider whether the GPPL already exports to that market, whether the GPPL has captured a market premium and whether allowing additional exporters would significantly affect that premium. Specifically, in assessing SEL's, the Act requires the GLA to assess:

- 1) whether market power and consequent price premiums exist for the main export licence holder and whether granting a SEL would be *likely* to significantly affect such a premium (Section 31(2) and 31(3)), and;
- 2) the effect of granting the SEL on the State's reputation as a grain exporter and the State's grain industry generally (Section 31(4)).

In addition, Ministerial Guidelines issued under the Act in relation to Section 31(4) provide for the GLA to consider:

- the predicted production for a season or seasons;
- the main export licence holder's marketing strategy;
- the ability of the main licence holder to enter into and deliver on long term supply agreements; and
- the world supply, demand and price trends for the relevant prescribed grain and/or its equivalent.⁴⁹

The Act contains a special provision for expiry. If the national wheat single desk (and associated export restrictions) were to be removed, the export provisions under the Act may, at Ministerial discretion, cease to apply.

3.2 GLA Decisions

Under the legislation, the GLA is not required to publish reasons for accepting or rejecting a SEL application (although it does provide reasons to the applicant). The GLA does however publish assessment criteria each year and issue media releases which provide a brief overview of its decisions.

For the 2007/08 season the key assessment criteria are:

- the GLA will give preference to issuing SEL's for new market opportunities and into markets, or market segments, that are not currently serviced by GPPL;
- the GLA will take into consideration any price premium due to market power.

⁴⁸ GLA 2007, Ministerial Guidelines for the Grain Licensing Authority.

⁴⁹ GLA 2007, *ibid*.

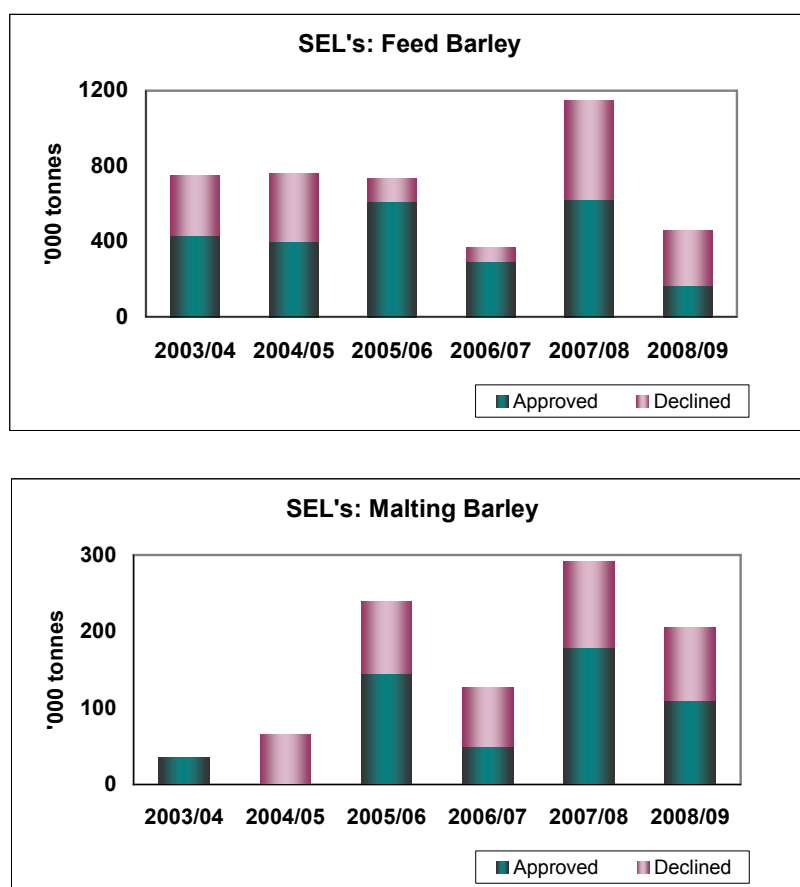
- the GLA will take a cautious approach to granting licences until a firm estimation of seasonal conditions and crop size is available. Additionally the GLA is not likely to grant licences for more than 60,000 tonnes per prescribed grain per application per season.
- the effect that granting a SEL would have on the State's reputation as a grain exporter and the State's grain industry in general is considered particularly relevant to applications for multiple seasons, for numerous markets and customers.

The GLA had previously noted that it is unlikely to grant early season SEL's until there is a reasonable probability that production will exceed the tonnage required by the GPPL to meet its demand in core markets.⁵⁰ Note that the GLA deferred 5 out of the 9 applications in June 2006 given the below average seasonal conditions. Poor seasonal conditions impact both on the total quantity of grains, and on the relative mix of malting barley to feed barley (i.e. poor seasonal conditions will reduce the proportion of higher quality malting barley).

However, the GLA has since modified its operational policy to allow early season (i.e. before seeding) licences from the 2006/07 season, if a strong case could be presented. According to the GLA, along with the introduction of multi-year licences, these measures will:

...encourage SEL holders to make investments required in infrastructure in the State to cater for niche and emerging specialist markets. In addition, it will open up a wider range of payment options for growers, including pre seeding prices. It is important to note that the GLA has had the power to issue licences early in the season and for multiple years from day one of its operation, but has not felt comfortable to do so until it had some experience as to how the whole system of SEL was going to work.⁵¹

Figure 3 Special Export Licence Applications



⁵⁰ GLA 2005, Report to Minister on Operation and Effectiveness for the 2004/05 season.

⁵¹ GLA 2006, Report to Minister on Operation and Effectiveness for the 2005/06 season.

Figure 3 shows the volume of export barley approved and declined by the GLA for the period 2003/04 to 2008/09. Over this period, an average 55 and 60 per cent of malt and feed barley tonnage respectively, has been approved.

According to the GLA, there is an opportunity cost associated with not granting early season SEL's, which effectively restricts growers' access to the cash market early in the season. When granting two licences in May 2006, the GLA noted that:⁵²

...there will be advantages to growers who wish to sell for cash in granting these special export licences now as it will allow exporters to offer cash prices prior to seeding.

GLA analysis shows that cash prices for exports of WA barley and lupins early in the season are typically higher than mid-season.⁵³ For 2006/07 the GLA decided that the benefits of issuing early season licences and/or multiple year licences (3 years) exceeded any potential impact on the GPPL's marketing strategies.⁵⁴

As part of the research necessary to inform the GLA's decisions, the GLA engaged an independent consultant (Farm Horizons) to examine the existence and extent of market-power price premiums. This report examined GPPL's five year average exports for all major markets as a percentage of total imports into each market. In three of the eight identified core barley markets (Kuwait, South Korea and Colombia) GPPL exceeded the Australian Competition and Consumer Commission (**ACCC**) threshold for unilateral market power (40 per cent). Market share in the three identified core canola markets (Japan, Pakistan and China) was less than 20 per cent in each market and it was considered unlikely market power was present. In the case of lupins, GPPL had a dominant market share (>95 per cent), given WA is the world's major producer and exporter, although no price premium was identified. Only in the case of barley exports into Japan did the report observe a price premium and noted that:

[i]t is debatable whether premiums into Japan for barley are due to market power from the seller or a feature of import regulations and additional costs associated with supplying this market.⁵⁵

In response to the consultant's report, the GLA noted that it is difficult to identify price premiums as attributable to the exertion of 'single desk' market power or to other sources such as:

- *Freight premiums* – WA is very well positioned to ship to our major grain markets at a shipping freight advantage compared with overseas and Eastern States competitors.
- *Quality premiums* – Due to our environment and varieties, WA grain will often sell at a premium due to being better quality for a particular end use than the grain offered by our competitors.
- *Time premiums* – Some markets will pay a significant premium to a supplier that will provide grain all year round. This is most significant for malting barley where not having to switch varieties is a significant benefit for a malting plant.
- *Market service premiums* – Often related to quality and time premiums, some markets are costly to service, and this needs to be off-set against apparent price premiums received.

The GLA also noted:

[t]hese premiums are available to any exporter of Western Australian prescribed grain, but are often incorrectly identified as premiums attributable to the 'single desk'. However the GLA takes these factors into account in consideration of the State's reputation.⁵⁶

⁵² GLA 2006, Media release 8 May 2006.

⁵³ GLA 2005, op. cit.

⁵⁴ GLA 2006, op. cit.

⁵⁵ GLA 2004, Report to Minister on Operation and Effectiveness for the 2003/04 season.

⁵⁶ GLA 2004, ibid.

In its published decisions, the GLA has noted that both China and the Middle East are highly contested markets based on price competition.⁵⁷ With the possible exception of the Japanese malt barley market, export licences for other markets are unlikely to be declined on the grounds that granting the SEL would be *likely* to significantly affect the a market power premium captured by the MEL holder.

The reasons given for declining applications show that market power premium is unlikely to be given as a reason for declining applications. The more frequent reason given is that of protecting the State's reputation. Reasons given for declining applications include:

- volumes granted to “core markets” of the GPPL are now reaching a level that could begin to impact on their marketing strategies and or the State's reputation as a reliable grain exporter (GLA media statement, Sept 2005);
- the need to protect the State's reputation due to the poor season (GLA media statement, July 2006); and
- given the tonnage already granted in feed barley special export licences, in relation to the predicted production, the (3) applications were declined to protect the main export licence holder's marketing strategy and the State's reputation as a grain exporter (GLA media statement, November 2007).

In clarification of its decision making process, the GLA has stated that:

[t]here are several matters that may affect the reputation of the State and /or grain industry. These include grain quality, disputed export destinations, price undercutting, shipment timing, customer requirements, and ability to fulfil agreements/volumes.

The GLA takes a broad interpretation of “price premium due to market power” and accordingly, will undertake a very rigorous assessment of special export licences for all markets particularly those identified as “core markets” of the main licence holder.⁵⁸

The National Competition Council (**NCC**) has noted in its 2004 assessment that it was not convinced by the GLA claiming that, in low crop seasons, the state's reputation as a grain exporter, or the grain industry generally (a relevant consideration under s31(4) of the Act), may be harmed if competition left GPPL with insufficient grain to supply its regular customers.

[c]ertainly, consistency of supply is important to some grain customers, some of whom may respond to reduced supply from GPPL by switching some or their entire requirement to other suppliers. However, the authority has not explained why GPPL cannot compete to obtain sufficient grain from WA growers. Indeed former statutory monopoly marketing boards generally continue to enjoy strong grower support following the lowering of barriers to competitive entry. Moreover, GPPL can acquire grain from growers outside of Western Australia, for instance via its marketing joint ventures with ABB Grain Ltd and with Elders.⁵⁹

It has also been noted that interpretation of the guidelines and application of the discretionary powers has lead to decisions that are not immediately transparent.⁶⁰ In their 2004 review the NCC recommended that the guidelines be amended to clearly specify the criteria used by the GLA to assess applications.⁶¹

⁵⁷ GLA 2006a, 'Two Special Export Licences Approved', Media Release, 8 May 2006.

⁵⁸ GLA Operating Procedures 2005/06.

⁵⁹ NCC 2004, *Assessment of governments' progress in implementing the National Competition Policy and Related Reforms: 2004*.

⁶⁰ Storey 2005, *Grain Marketing in Western Australia: An assessment of the existence and extent of price premiums which result from market power available to the main export licence holder*, August 2005, prepared for the Grain Licensing Authority.

⁶¹ NCC 2005, op. cit.

In response the GLA notes that:

[w]hile it may be appealing to modify the Guidelines to be more prescriptive in a number of areas, the GLA believes that this could raise more problems than it solves and currently the Ministerial Guidelines provide sufficient flexibility and discretion to implement the intent of the Act.⁶²

Following a Ministerial review of the Act and Guidelines in 2005, the Minister announced that there would be no changes to the Act or Ministerial Guidelines. In its 2005 review the NCC noted that while this outcome did not follow its 2004 recommendations, grain exporters and growers nevertheless now have more certainty about how the GLA exercises its licensing powers.

Issues

- 1) Does the GLA assessment criteria adequately reflect the purpose of the Act, namely to maximise the benefit of market competition?
- 2) Are the recent modifications to GLA policy, including the introduction of early season and multi-year licences, likely to encourage SEL holders to make investments required in infrastructure in the State to cater for niche and emerging specialist markets?
- 3) Interpretation of the Guidelines and application of discretionary powers can impact on the transparency of GLA decisions. Would amendment of the Guidelines and/or Act clarify the GLA assessment process?

⁶² GLA 2005, op. cit.

3.3 Impact of the GLA

The introduction of the GLA has provided WA grain growers with additional options for selling grains. Prior to the introduction of the GLA, growers could sell export grain to the Grain Pool (then GPWA) or sell into the domestic market.

Growers now have a choice of selling grain in:

- bulk to the export market through a licensed exporter who holds a GLA licence;
- bags or containers to the export market;
- value added form to the export market; and/or
- any form to the domestic market.

In its first year of operation (2003/04), around 700 growers (10 per cent of WA growers) delivered to holders of SEL's. There were 19 applications for a SEL with a total tonnage of 0.53 million tonnes (12 per cent total WA prescribed grains production). In 2005/06 applications had increased to 27 with a total approved tonnage of 0.85 million tonnes. The ratio of approved SEL tonnage to the State's total production for prescribed grains in 2005/06 was 21 per cent.

There has been a notable increase in SEL approvals for the 2007/08 season with over 1 million tonnes of grain exports approved (the highest volume to date). Notably, the ratio of approved SEL barley tonnage to WA production for 2007/08 is 44 per cent, around twice the average ratio for the preceding four seasons.⁶³

With the introduction of SEL's there was an increase in cash prices for both feed barley and canola, and higher pool returns for prescribed grain. The GLA has noted that the granting of SEL's in WA appears to have facilitated grain growers receiving higher prices than would otherwise have been the case.⁶⁴

The GLA also notes that:

[i]t is likely the existence of export competition in the export cash grain market has resulted in Western Australian growers receiving higher cash prices and pool prices for feed barley and canola. The cash prices and indicator pool prices are reflecting more closely the freight and FOB advantages that the State has in the export of grain to Asian and Middle Eastern markets.

...the GPPL, through its trading arm AgraCorp, is now offering barley multigrade contracts (malting and feed) for the first time. The GLA believes this positive outcome is a result of the GPPL adjusting its operations to match terms being offered by competitors through special export licences.⁶⁵

A consultant's report for the GLA noted that although:

[i]t is impossible to assess the size of the benefit to Western Australian growers from this additional competition for their grain.... it is reasonable to say that there has been some significant benefits to some growers and the emergence of the cash market has created another valuable marketing alternative to growers.⁶⁶

⁶³ GLA website, statistics; ABARE, Australian Grains, 2004 -2007 issues.

⁶⁴ GLA 2004, op. cit., NCC 2004a, *A Review of the NCP Grain Market Reforms*, NCC Occasional Series November 2004, Prepared for the National Competition Council by ACIL TASMAN August 2004.

⁶⁵ GLA 2006, op. cit.

⁶⁶ Advance Trading 2006, *Grain Market Assessment in Western Australia*.

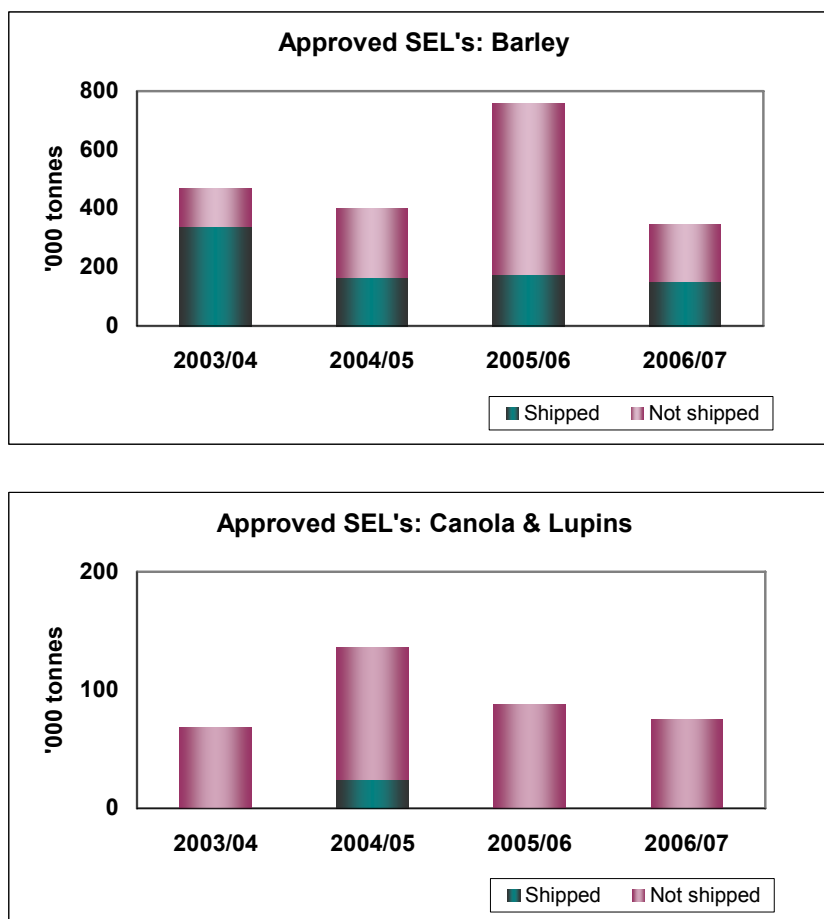
A review of the benefits of the GLA for 2003/04 found a net benefit to growers of \$2.9 million.⁶⁷ A further reported benefit of the GLA framework in WA has been increased diversity in the number of grain traders active in Western Australia,⁶⁸ together with a greater range of contract types and a more competitive cash market.

3.3.1 Special Export Licence Volumes

There is a significant difference between the volume of export grain granted under SEL's and the actual export tonnage shipped. The highest percentage (and total volume) shipped was in 2003/04, with 63 per cent of granted SEL tonnage shipped for export. In comparison, since 2004/05 around 30 per cent of granted volume has been exported.

The majority of tonnage exported under SEL's is for feed barley, with the Middle East market being the key destination. Since 2003/04, over 800,000 tonnes of feed and malt barley has been shipped under SEL's. In contrast, only a total of 25,000 tonnes of canola has actually been shipped under SEL's.

Figure 4 Special Export Licence – volumes



⁶⁷ RSM Bird Cameron 2005, *Review of the Benefits and Costs of the Operations of the Grain Marketing Act 2002 and the Grain Licensing Authority*.

⁶⁸ In addition to the GPPL, other traders such as Cargills and GrainCorp operate wheat, feed barley and canola pools in Western Australia.

If the SEL holder takes ownership of the grain and does not then trade this grain, it can be delivered into the Traders Pool (rather than the traditional harvest or grower Pools). The Traders Pool was introduced by the Grain Pool in 2003 reflecting that:

[u]nder state legislation, Grain Pool is the receiver of last resort, meaning that it must accept grain acquired by traders into the Pools if traders are unable or unwilling to market their grain. The segregation of the grain delivered by traders and by growers into separate Pools will allow Grain Pool to market the grain separately and better protect growers' interests and the value of their grain.⁶⁹

Given there have been no deliveries to the Traders Pool, grain accumulated but then not exported by SEL holders is being traded by other methods (e.g. on-sold to other SEL holders or into the domestic market).⁷⁰

The fact that significant quantities of tonnage granted under SEL's are not shipped may reflect that SEL holders have been unable to acquire grain at their offered price due to competitive pool prices. However, growers have also noted a number of possible impediments, which include:

- Time taken to obtain a licence from GLA and the restrictive licence conditions. These licence conditions effectively limit tonnages and destinations. If the approved export sale is not executed for any reason, the exporter cannot transfer the tonnage to a destination and/or buyer not specified on the application⁷¹; nor has the GLA permitted the approved volume to be carried over into the following year.
- Industry participants (e.g. Elders) have indicated licence terms of more than one year are required to facilitate exports by grain traders. Despite concerns from GPPL, the GLA decided that for 2006/07, the benefits of issuing licences early in the season and/or for multiple years (up to 3 years) exceed any potential impact on the GPPL's marketing strategies. This is the first time the GLA issued multiple year SEL's.⁷²
- Access and pricing with grain export infrastructure. There are a number of policies, charges and fees introduced by CBH (which owns the bulk handling port facilities and holds a monopoly on grain storage and handling in WA) that appear to adversely impact SEL holders in comparison to GPPL.

For the 2005/06 season CBH's fees (for storage, handling and testing) averaged around \$20 per tonne for prescribed grains. Grain acquirers paid around 50 per cent of the fee, with growers responsible for the balance.⁷³

In their annual report to the Minister, the GLA has raised concerns about CBH's grain policies and charges, with key concerns being:

- the ability of SEL's to accumulate grain across multiple port zones may be limited by the CBH policy of not allowing grain swaps and requiring exporters to give one month's notice of shipping dates and the specific sites from which grain will be accessed; and
- extra rebates (and/or lower charges) for deliveries (and/or transfer of ownership) to the GPPL and AgraCorp, in preference to other exporters.

⁶⁹ CBH 2003, 'Grain Pool opens Traders Pool to protect growers', Media Release 17 November 2003.

⁷⁰ GLA 2006, op. cit.

⁷¹ Alternative market destinations can be specified on one licence, with each destination having a specified buyer. The GLA notes that this allows the SEL holder to develop a new 'high risk' market but also nominate a 'low risk' market as a fall-back. Reference: GLA Operating Procedures 2006/2007.

⁷² GLA 2006, op. cit.

⁷³ Department of Agriculture WA 2006, Farm Weekly Budget Guide 2006.

The GLA also notes that:

[w]hile CBH is a grower owned company it is still controlled in part by statute under the Bulk Handling Act 1967. It would appear that CBH are required to allow any person to utilise any bulk handling facilities it owns at ports, but it is free to charge whatever fee(s) it determines.

The uneven application of charges by CBH on GPPL Ltd and SEL's may be justified in some instances. For example where there are clearly greater costs involved in dealing with the requirements of the SEL's. However in a number of instances there does not appear to be justification for some of the policies, fees and charges that CBH has put in place.

Given that CBH currently holds a natural monopoly on storage and handling in WA, principally through its control of facilities at the four ports, this matter has been referred to the Treasurer, to determine whether the matter warrants intervention under the provisions of the Part 3A of the Trade Practices Act 1974. This matter has been noted by the Department of Agriculture and Food and Treasury, and a Working Group has been formed to look at the issue.⁷⁴

Issues

- 4) What are the reasons for actual SEL exported volumes being significantly less than the volumes granted by the GLA?
- 5) What issues does the Authority need to consider in reviewing the effectiveness of the GLA?

⁷⁴ GLA 2006, op. cit.

4 Are Current Restrictions on Grain Marketing Effective?

The key factors identified in the Terms of Reference that could impact on the effectiveness of grain marketing are:

- restrictions on barley, canola and lupin marketing;
- the operation of pools and cash acquisitions of prescribed grains by the main export licence holder GPPL; and
- licensing requirements and fees and charges.

The Authority is required to undertake an analysis of the net public benefit of these factors.

In considering these issues, the Authority is aware that previous assessments of single desk marketing have been based on limited access to quality information, including disaggregated sales data has made it difficult to quantify the net public benefits arising from these arrangements for grain exports.⁷⁵

In a report to the Minister, the GLA noted that:

...it is still the case that the GLA does not have access to all the information it requires to carry out its role under the Act with the degree of certainty it would like.

Section 31(3)(b) of the Act prevents the GLA from granting export licences in the event that it may have an adverse impact on any price premium due to market power being attained by the GPPL. Given this key provision of the Act, the GLA is seeking further substantiating evidence from the GPPL that it is receiving such price premiums for prescribed grains in any markets. In the absence of the provision of substantiating data, the GLA will continue to issue special export licences on the basis of information it has accumulated from a wide range of sources.⁷⁶

The GLA also noted that:

...limited market transparency and the lack of indisputable evidence to either support or repudiate the benefits of single desk marketing complicates GLA's responsibilities in administering the licensing system.

...Although GPPL has consistently argued that issuing licenses into markets where it is already selling grain is undermining the benefits of the single desk, it is difficult to identify detrimental impacts on their marketing performance. While specific sales data was not made available, it appears that GPPL has maintained its market share into all of the markets where the GLA has issued licenses. And although there are many difficulties in assessing pool performance for market transparency, with the lack of suitable indicators and the limited number of pools since GLA commenced, there has been no notable deterioration in pool performance.⁷⁷

The Authority notes that undertaking a rigorous analysis of net public benefits may require access to confidential information from the GLA and the GPPL.

⁷⁵ See for example, Storey, op. cit., Kronos Corporate 2002, *A Review Of Structural Issues in the Australian Grain Market*.

⁷⁶ GLA 2005, op. cit.

⁷⁷ GLA 2006, op. cit.

4.1 Restrictions on Barley, Canola and Lupin Marketing

Individual grain growers who wish to export must sell their grain to either the GPPL or to SEL holders. SEL holders are limited in their export tonnages and are limited to specific markets, given the GLA cannot grant licences that it believes could undermine any single desk benefits from market power.⁷⁸

Historically, both in Australia and overseas, there has been considerable debate over the relative benefits of single desk selling for export grains. The debate has centred on the issues of:

- price premiums from the exercise of genuine market power;
- quality control and value-adding;
- the coordination of Research & Development; and
- competing effectively in the international grain market.

Proponents of grain marketing deregulation argue that:

- the actual price premiums obtained are relatively small. For example, independent studies indicate that the AWBI price premium is in the order of \$1-2 per tonne.⁷⁹ In addition, price premiums are often due to other factors than market power. These factors include grain quality and customised services;
- private traders also deliver price premiums to growers, e.g. Cargill obtains premium prices for identity-preserved (IP) grains due to their value to specific customers;⁸⁰
- competition will deliver more efficient service levels and more responsive industry innovations;
- risk management options improve, e.g. pool/contract options increase and the reliance on pools (with averaged returns) is reduced; and
- transparency and information dissemination increases in deregulated markets.

Opponents of grain marketing deregulation argue that a single desk:

- enables price premiums from market power to be captured. A single desk also allows branding of a differentiated product to enable the capture of quality premiums;
- enables greater economies of scale, e.g. in pool management and the delivery of service levels;
- increases bargaining power in a distorted (and subsidised) international grain market. For example, US and EU wheat farmers receive 46 and 58 percent of their income, respectively, from government support; compared to 11 percent for Australian wheat farmers.⁸¹ Over the period 2000-04 this equated to annual support of around A\$110 per tonne for US wheat farmers compared to \$8 per tonne for Australian wheat farmers;⁸²

⁷⁸ GLA 2006, op. cit.

⁷⁹ GrainCorp 2007, *A Contestable Export Wheat Market Maximising Returns to Growers*, Submission to the Wheat Export Marketing Consultation Committee, 23 February 2007.

⁸⁰ Sims F. 2000, *Perspectives on Single-Desk Marketing*, Presentation to the Grains Council of Australia, Brisbane, April 5 2000.

⁸¹ Chang H, Martel W. and R. Berry 2005, *Assessing AWB's market power in the export market*, Agricultural and Resource Economics Working Paper 2005-9, University of New England.

⁸² CWB 2006, Annual Report 2005-06.

- allows grower risk to be minimized, i.e. a grain pool allows risk to be shared across growers which together with the 'buyer of last resort' obligation, increases financial and cash flow security; and
- can better assist in the provision of industry functions such as research, quality assurance, and generic marketing.

4.1.1 Review of 'single desk' studies

The Authority has undertaken a preliminary review of studies on the Australian and International grain markets. The key findings of a number of the more recent studies are given below.

The State and Federal government reviews undertaken under the NCP framework (detailed in Section 1.2) were generally unable to identify and/or quantify with any degree of certainty any significant net public benefits from single desk marketing arrangements. In addition, the effects of single desk marketing were found to be primarily distributional. While there may be a net benefit to domestic producers, domestic prices to consumers are relatively higher.⁸³

Studies have also found that the objectives of single desk marketing, (including capturing price premiums and achieving economies of scale in marketing) can also be achieved by more competitive marketing structures or that activities such as research and development and quality control can be delivered by more targeted mechanisms.⁸⁴

A review of studies on strategic trade show that there is no clear consensus on whether single desk exporters (typically statutory authorities) or private multinational firms can exert market power on international grain markets.⁸⁵ While studies show that imperfect competition is pervasive in international agricultural markets, the margins tend to be relatively low. There is only substantive evidence of optimal strategic trade in one grain market, namely the international durum wheat, a market with high market concentration and low product differentiation.⁸⁶

A study was undertaken of the global malting barley market and the role of the Australian Barley Board (ABB) and the CWB. In comparison to durum wheat, a study of the malting barley market found that exporting countries were in competition. As a result, neither Australian Barley Board (ABB) or the CWB (major exporters) had market leadership in the differentiated global malting barley market or were optimally shifting income from other exporting countries.⁸⁷

A number of studies have been undertaken of price premiums for prescribed grains exports from WA. These studies indicate the majority of price premiums are historically related to the Japanese market and are highest for feed barley. Price premiums for barley exports from WA have been estimated to range from \$1.20 per tonne to \$13.80 per tonne.⁸⁸

⁸³ See for example, Farquharson, R.J. and Griffith, G.R. (2001), 'Single Desk Selling by the NSW Grains Board: Public Benefit or Public Cost', *Australian Agribusiness Review*, Paper 6, Volume 9; S. McCorriston and D. MacLaren 2005, A Contributed Paper prepared for the 34th Annual Conference of the Economic Society of Australia, The University of Melbourne, 26–28 September 2005.

⁸⁴ See for example, Productivity Commission 2000, *Single-desk Marketing: Assessing the Economic Arguments*, Productivity Commission Staff Research Paper, AusInfo, Canberra.

⁸⁵ See for example, Food and Agriculture Organisation 2005, *Trade Policy Technical Notes on issues related to the WTO negotiations on agriculture*, No. 4. Export competition: Selected issues and the empirical evidence.

⁸⁶ Reimer J.J and K.W Stiegert (2006), *Imperfect competition and strategic trade theory: What have we learned?*, Food System Research Group, University of Wisconsin-Madison.

⁸⁷ Dong F., Marsh T.L. and K. W. Stiegert 2005, *State Trading Enterprises in a Differentiated Environment: The Case of Global Malting Barley Markets*, Working Paper Series FSWP2005-01, Food System Research Group, University of Wisconsin-Madison.

⁸⁸ Farm Horizons 2004, *Price Premiums from Market Power: An Assessment Of The Existence And Extent Of Price Premiums Resulting From Market Power Available To The Main Export Licence Holder*.

Regarding wheat sales, AWB analysis indicates that the single wheat desk provides premiums in the range of US\$6-\$13 per tonne. This equates to annual total premiums of US\$145-250 million dollars.⁸⁹

Quantifying market premiums and the net benefits of single desk type arrangements is sensitive to assumptions (and to the period analysed). The calculated net benefits of single desk compared to a multiple seller (competitive) environment are highly dependent on two key factors, namely the assumptions placed on the ability to price discriminate and marketing costs. For example, a study on the CWB found the sensitivity of calculated benefits ranged from a benefit (additional producer revenue) of C\$96 million to a loss of C\$160 million.⁹⁰

Issues

- 6) What evidence is there of the relative benefits/costs of the GLA/GPPL framework for:
- industry price premiums arising from the exercise of market power;
 - quality control and value-adding;
 - the coordination of research and development; and
 - competing effectively in the international grain market.

4.2 Grain Pools

Prior to deregulation, compulsory pooling was a feature of the Australian grain market. Statutory Marketing Authorities (**SMA**'s) typically offered one contract pool per season for each type of grain. Contract pooling averages costs and returns (and price risks) across the pool volumes and over the pool period (typically 15 months).

Following deregulation, growers' options for selling grain and the ability of grain growers to manage risk have increased. For example, growers now have a range of options for selling grain, ranging from the more traditional longer term contract pools to shorter term pools. In addition, alternative types of contracts allow growers to more actively manage components which determine the final price, such as foreign exchange movements, and to enter contracts without being committed to physical delivery. Many of these contracts offer premiums for higher quality grain (or equivalent discounts for lower quality grain)

Reflecting that average prices for cash contracts are typically higher than pool prices⁹¹ and to make their grain pools more competitive with the cash market,⁹² GPPL is now offering a wider range of pools. In 2005/06 the GPPL introduced more flexible pool options for barley growers, with similar options available to canola growers from the 2006/07 season. The new pools include a short-term fixed tonnage contract pool designed to deliver a premium price for growers who deliver early season grain into the pool.

Competition to accumulate grain has increased with deregulation of Australian grain trading. A number of companies (including ABB Grain, Elders, GrainCorp and Cargills) are now active in the WA market offering pools and cash contracts for barley, canola and lupins.

⁸⁹ Joint Industry Submission Group 2000, *Australian Wheat: It's Time for Choice*.

⁹⁰ D.D Johnson 1999, *Single Desk Selling of Canadian Barley: Price Pooling, Price Discrimination and Systemic Costs*, Agricultural Economics Report No. 411, North Dakota State University.

⁹¹ RSM Bird Cameron 2005, op. cit.

⁹² CBH 2006, 'Grain Pool announces changes to barley pools for 2006-07', Media Release, September 11 2006.

Regarding an assessment of the operation of pools and cash acquisitions, the GLA notes that:

[h]igher cash prices may not necessarily be reflective of pool performance and many growers prefer to market their grain into pools rather than for cash... Analysing pool performance against other pool's can be problematic because of the timeframes involved and differences in how pools may be operated.

The GLA commissioned Advance Trading to assess GPPL's pool performance against ABB Grain's malting and feed barley pools. The pool prices were found to follow the same trends. However, given the relative lack of data (only one pool price per year to compare), no definite conclusions about any price differentials could be reached.⁹³

Issues

- 7) What are the advantages/disadvantages of the current pool/contract options?

4.3 Licensing Requirements

Quality Standards

The National Agricultural Commodity Marketing Association (**NACMA**) publishes grain standards which are the grain industry's reference for domestic and export contracts. Private grain traders adhere to NACMA standards and over 95 per cent of the grain contracts executed in Australia each year refer to NACMA grain standards and/or trade rules. Pool operators also report to ASIC regarding statutory obligations under the Financial Services Reform Act.⁹⁴ In addition, the grain industry is in the process of adopting Quality Assurance Schemes (QAS) which include independent verification of quality standards.⁹⁵

Licence Applications

In the SEL application form for 2006/07, the GLA states that:

...the overall objective of the Grain Marketing Act 2002 is to enhance the Western Australian grain industry by increasing the total share of Western Australian grain in export markets where it displaces grain supplied by a third party.

Given this stated objective, the GLA recommends that the applicant's supporting information addresses a number of criteria, including the potential substitution of third party supplies in the nominated export market and verification that the SEL export is a new market opportunity. In addition, for multi-season applications, the applicant must also demonstrate that a longer term commitment is required due to:

- the export market being a niche market with special requirements;
- longer-term investment in WA infrastructure and services; and
- innovation being introduced across the supply chain.

⁹³ GLA 2006, op. cit.

⁹⁴ NACMA 2006, op. cit.

⁹⁵ Department of Agriculture, Fisheries and Forestry Australia 2000, Submission to the Taskforce on Industry Self-regulation, Submission No. 28, January 2000.

There a number of licensing features which may impact on the effectiveness of the current scheme. These include:

- the time taken from application until granting of the SEL. Under the Guidelines a decision must be made within 30 days of the receipt of the application (unless the Minister has given permission for an extension) and the applicant must be notified of the outcome within 14 days of the decision date. If the SEL application is refused, the applicant may appeal (within 30 days after receiving notice of the decision) to the Minister in writing. The Minister must make a determination within 30 days of the appeal being received.
- licence conditions (include specific volumes and destinations) do not allow flexibility in transferring accumulated grain to another licence (may have a different destination and/or buyer) or allow carry-over into the following year.

In the grain market, short term contract and spot sales are an increasing feature of the export market. The longer time-frames imposed by an export licensing system and the more restrictive conditions (as opposed to a deregulated market) have the potential to restrict these opportunities for WA grain traders.

GLA Fees

The GLA collects three types of fees under the Act:

- 1) MEL holder fee: \$400,000 per annum.
- 2) SEL application fee: \$5,000 (20,000 tonnes or less) to \$20,000 (more than 50,000 tonnes).
- 3) A licence fee of \$500 per annum for each year a SEL is held.

The GLA operates on a 'fee for service'. Given the cost of operating the GLA has been less than the fees collected, there have been substantial rebates back to the MEL holder and SEL applicants and holders.⁹⁶

Issues

- 8) Do the current quality standards and schemes meet growers' requirements?
- 9) Are the current licensing requirements (including fees) efficient?
- 10) What other issues does the Authority need to consider in reviewing the effectiveness of current restrictions on grain marketing?

⁹⁶ GLA 2006, op. cit.

5 Would an Alternative Regulatory Model be More Effective?

5.1 Background

As indicated in Chapter 2, historically each state in Australia had its own statutory “single-desk” authority with an exclusive right to buy barley (and often other coarse grains) and to market this grain on the domestic and international markets. The deregulation of the domestic grain markets began in the mid 1990s. Over the past eight years, and following NCP reviews, state regulation of exported grains has also been gradually replaced by open markets. For the 2006/07 season, exports of barley were only regulated in SA and WA, while WA was the only State continuing to regulate exports of canola and lupins.

5.2 Regulatory Options

There would appear to be at least three options for future grain marketing arrangements in WA.

- Retain the GLA framework, although with some possible amendments;
- Adopt a ‘light handed’ regulatory approach, with independent licensing of grain export marketers (similar to SA).
- Full deregulation (as in Victoria).

These three options are discussed in turn.

5.2.1 Retain the GLA framework

The recent SA review of barley marketing identified the broad advantages of a GLA framework as:⁹⁷

- having achieved NCP requirements for barley marketing in Western Australia;
- providing some competition in the marketplace and therefore choice for growers; and
- providing a transition step from regulation to deregulation for growers.

One option for potentially enhancing the effectiveness of the current GLA framework would be to increase the transparency of the decision making process. While licensors typically have some degree of discretion in how they perform their prescribed functions, issues of predictability and transparency are important features of an effective licensing regime. Transparency would be increased if more detailed reasons (respecting any confidential information) for the decision were made publically available, particularly when the application was rejected.

Grain industry participants have noted that the GLA model, while creating a number of new marketing opportunities for growers (including improved pool and cash products from the GPPL), creates a level of uncertainty as to the issuing of licences that may be difficult for applicants to manage and is potentially reflected in the level of investment marketers are willing to make in WA.⁹⁸ The GLA model only permits grain accumulation if an export licence is held.

⁹⁷ SA Barley Marketing Working Group 2006, Report to the Hon Rory McEwen MP, Minister of Agriculture, Food and Fisheries and SA Farmers Federation Grains Council.

⁹⁸ See for example, AGEA 2006, *SA Barley Marketing*, A submission by the Australian Grain Exporters Association to the SA Barley Marketing Working Group, prepared by ACIL Tasman, August 2006.

This restriction may limit development of grower services, including the use of grain accumulating businesses.⁹⁹

Another option for amending the current framework is to remove one or more grains from the list of prescribed grains, which is a power currently residing with the Minister.

As indicated in section 3.3.1, the current grain handling arrangements represent a potential barrier to grain market competition and efficiency in the supply chain. CBH owns the grain storage and handling facilities and its marketing subsidiary GPPL accounts for the majority of barley, canola and lupin exports. Access and pricing of grain storage, handling and transport facilities may have to be addressed in whatever option is progressed.

5.2.2 Adopt a 'light-handed' regulatory approach

In South Australia, the Barley Working Group (2006) recommended the deregulation of barley marketing in SA, with a clear and transparent transition process to full deregulation. This Working Group recommended that an independent regulator be responsible for licensed accreditations of barley export marketers. In July 2007, ESCOSA became responsible for granting export licences (for the three year transition period) and has subsequently licensed seven grain marketers.¹⁰⁰

ESCOSA is also responsible for regulating key grain infrastructure, including regulating access and pricing for grain infrastructure. The legislative intent of the *Barley Exporting Act 2007* is that the regime is a transitional step to full market liberalisation. Under the Act, a review is scheduled in two years, with expiry of the Act in July 2010.

On the understanding that ESCOSA will regulate export licensing in a transitional framework, ESCOSA notes that:

...the Commission has adopted an approach based largely on current market practices, in order that barley growers, in particular, are not required to make fundamental changes to their business practices as a result of the partial liberalisation of the barley exporting market.

...licences issued by the Commission require barley export contracts to deal with certain specified matters, but that requirement does not extend to the form in which those matters are expressed or dealt with in the contracts. It is the Commission's understanding and expectation that the matters will be dealt with in the manner most appropriate to the parties as necessary in the circumstances.¹⁰¹

ESCOSA notes that this approach is a 'light-handed' approach to regulation of the barley export industry. However, ESCOSA reserves the right to introduce more stringent regulatory options if evidence were to arise of market failure in the barley export market.

The criterion under which ESCOSA operates is different to that of the GLA. In performing its barley export licensing functions, ESCOSA must have as its primary objective:

...the protection of the long term interests of the consumers of barley export services (i.e. South Australian barley growers) with respect to the price, quality and reliability of those services.¹⁰²

⁹⁹ SA Barley Marketing Working Group 2006, op. cit..

¹⁰⁰ ESCOSA evaluates each trader's suitability before granting a license and has the power to audit companies. To assist in this licensing role, an independent advisory committee was established to provide expert advice to ESCOSA on the operations of the industry.

¹⁰¹ ESCOSA 2007, Licensing Arrangements For The South Australian Barley Exporting Industry, AB5/1 May 2007.

¹⁰² ESCOSA 2007, op. cit.

Unlike the WA framework, licence applications in SA do not have to be assessed with reference to the major export trader (ABB Grain). Under the Act, the licence conditions may include:

- a condition relating to the barley exporter's financial or other capacity to continue operations under the licence;
- a condition requiring the barley exporter to include specified standard terms and conditions in contracts for the export of barley;

A key criteria for granting export licences is the financial and technical expertise of the applicant. Traders wishing to obtain an export licence must comply with industry codes (e.g. NACMA codes).

ESCOSA indicated that annual costs for the accreditation and licensing process would be in the vicinity of \$150,000.¹⁰³ ESCOSA licence application fees have been set by the Minister at \$2,500, with the annual barley exporting licence fee set at \$12,500.¹⁰⁴

Issues that would need to be considered in adopting a SA-type regime include whether:

- this framework would lower regulatory costs;
- utilising the assessment criteria (of an exporter's technical and financial capabilities) would lead to an increase in actual volumes shipped by SEL holders;
- the timetable for further grain market deregulation in WA, including full deregulation; and
- grain handling and transport issues may limit grain marketing opportunities.

5.2.3 Full deregulation

The current framework could be replaced with an open marketing system, that is, including fully deregulated export trade in barley, canola and lupins.

Potential benefits to WA grain growers from further deregulation include increased options for selling into competitive and transparent cash markets while maintaining the ability to continue utilising pool schemes. More generally, the potential benefits from fully deregulating grain markets include increased supply chain efficiencies, greater price transparency with more appropriate market signals and greater consistency between Australian states.

The SA Barley Working Group noted that experience in other states suggested that higher price volatility and risk resulted from market deregulation. The Working Group indicated there was a need for a transition process to full deregulation, which included a program of grower education to ensure a greater understanding of the implications of the market changes.¹⁰⁵

A Victorian Government review of grain market deregulation notes that:¹⁰⁶

...growers now have greater choice in managing risk. This includes the ability of growers and exporters to negotiate forward contracts. Deregulation also allows for new competitors and innovation in related services such as financing for growers.

There has been considerable rationalisation and vertical integration across the grain industry to achieve benefits of scale and scope.

Deregulation has led to increased investment by growers in on-farm storage and segmentation to take advantage of niche market opportunities (for example, specialised types of malting barley and grain certified as organically grown).

¹⁰³ SA Barley Marketing Working Group 2006, op. cit.

¹⁰⁴ ESCOSA 2007, op. cit.

¹⁰⁵ SA Barley Marketing Working Group 2006, op. cit.

¹⁰⁶ Dept. of Treasury and Finance Victoria, Legislation Review.

As with the other options, a factor that would need to be considered in conjunction with deregulation of export marketing is the issue of access to grain infrastructure.

Issues

- 11) What possible amendments could enhance the effectiveness of the current GLA framework?
- 12) What are interested parties' views on adopting a SA-style regime?
- 13) What are interested parties' views on fully deregulating the export grain market?
- 14) What other issues does the Authority need to consider in reviewing the effectiveness of the current and potential regulatory frameworks?

APPENDICES

Appendix 1: Terms of Reference

I, ERIC RIPPER, Treasurer (following consultation with the Minister for Agriculture and Food), and pursuant to section 38(1)(a) of the *Economic Regulation Authority Act 2003* (the ERA Act), request that the Economic Regulation Authority (the ERA) undertake an inquiry into the operation and effectiveness of grain marketing in Western Australia, as prescribed by the *Grain Marketing Act 2002* (the Act) and in accordance with the review requirements of Section 48 of the Act.

In the course of this review, the ERA is to consider and have regard to:

- the effectiveness of the operations of the Grain Licensing Authority;
- the need for the continuation of the functions of the Grain Licensing Authority;
- other matters that could be relevant to the operation and effectiveness of the Act, including (but not limited to) an analysis of the net public benefit of:
 - restrictions on the export of ‘prescribed grain’ (barley, canola and lupins);
 - an assessment of the operation of pools and cash acquisitions of prescribed grains by the main export licence holder (Grain Pool Pty Ltd);
 - licensing requirements governing the accumulation and trade of prescribed grains for export;
 - fees and charges applying to licensing; and
 - alternative regulatory models that could be applied in Western Australia; and
- the implications of relevant changes in grain marketing in Australia and internationally.

The Authority will release an issues paper as soon as possible after receiving the Terms of Reference. The paper is to facilitate public consultation on the basis of invitations for initial written submissions from industry, the Government and all other stakeholder groups. The Authority will also release a draft report for further public consultation.

The ERA will complete a final report no later than seven months after receiving the Terms of Reference for review.

ERIC RIPPER MLA
DEPUTY PREMIER: TREASURER:
MINISTER FOR STATE DEVELOPMENT

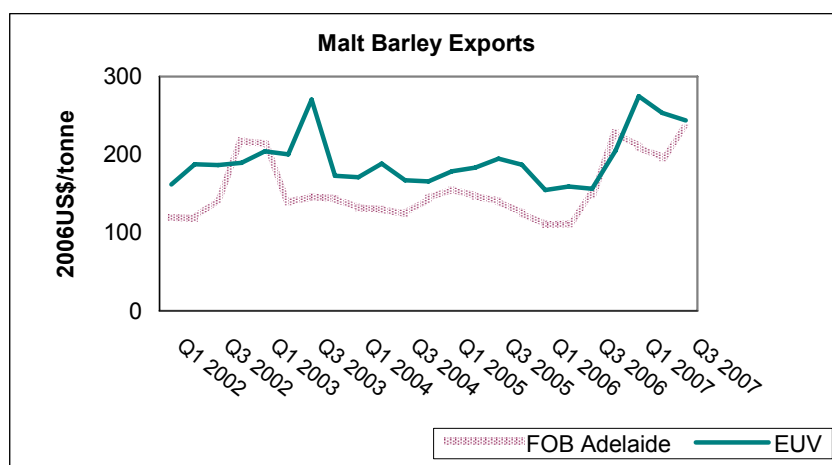
Appendix 2: Grain Prices and Market Share

GRAIN PRICES

Malting barley is typically sold at a premium to feed barley. Over the past 10 years, the price difference between malting and feed barley pool prices in Australia have averaged around \$40 per tonne.¹⁰⁷ Canada is Australia's major competitor in the export markets of China and Japan. Australia has a freight advantage over both Canada and the EU in the Chinese barley market because of its proximity to China. Prior to the EU entering the China malting market in 1995, Australia and Canada supplied the entire Chinese malting barley market. China accounts for around 50 per cent of world malting barley imports and is one of the most competitive markets globally. According to a report on the Canadian barley industry, major malting barley importers in China leverage the competition between Australia, the EU and Canada by taking advantage of supply pressures during the different harvest periods of these major exporters.¹⁰⁸

Reviewing the Australian and Canadian malting barley prices (FOB) over a 4 year period to 2003/04 shows that the respective price series are highly correlated. Australia typically averaged US\$5 per tonne less than Canadian exports, with the exception of 2002/03 when there was a global supply shortage of barley. Although both Australian and Canada experienced drought conditions, Canadian exports were more severely impacted.¹⁰⁹ The smaller volume of Australian exports traded at a premium to Canadian exports.¹¹⁰

Figure 5 Malt Barley Export Prices



Source: South African Grain Information Service, ABARE Crop Reports.

Note: EUV is the export unit value, which is the average value of one tonne of exported barley.

Major grain suppliers do capture short-term price increases due to seasonal conditions. Most recently, significant downgrading (quality) to the European and American barley harvests and forecast uncertainties in the Southern Hemisphere (Australian and Argentinean) harvest have resulted in a substantial increase in the malting barley price.

¹⁰⁷ Department of Agriculture WA 2007, Western Australian Agri-Food And Fibre Industry Outlook, Bulletin 4714, April 2007.

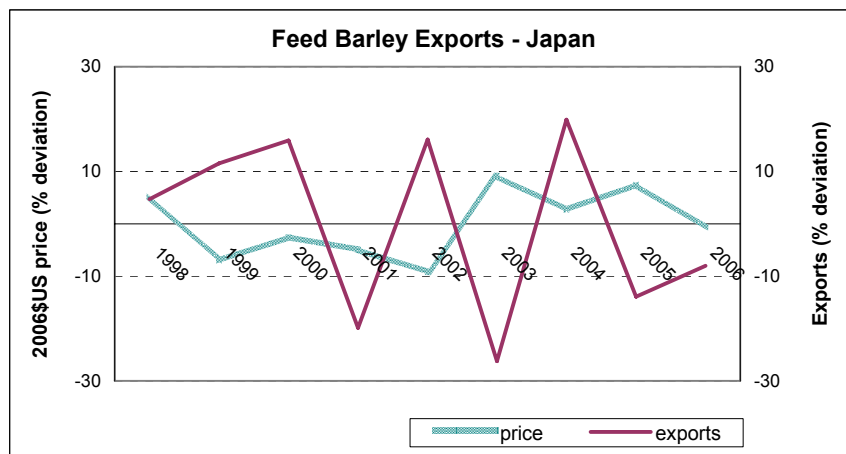
¹⁰⁸ Sparks Companies Inc. 2004, *The Canadian Barley Industry in Transition: A Study for Alberta Agriculture, Food and Rural Development*, April 2004.

¹⁰⁹ Canadian and Australian barley exports were around 30 per cent of their 4-year average.

¹¹⁰ Schmitz A., Schmitz T.G. and R. Gray 2005, *The Canadian Wheat Board And Barley Marketing*.

Since June 2007, EU malting barley prices (FOB Moutgars) have risen by 25 per cent to be around US\$500 per tonne¹¹¹, while US feed barley export prices have risen to nearly US\$400 per tonne. For Western Australian exporters, malting barley (cash) contract prices are currently around US\$330 per tonne.¹¹²

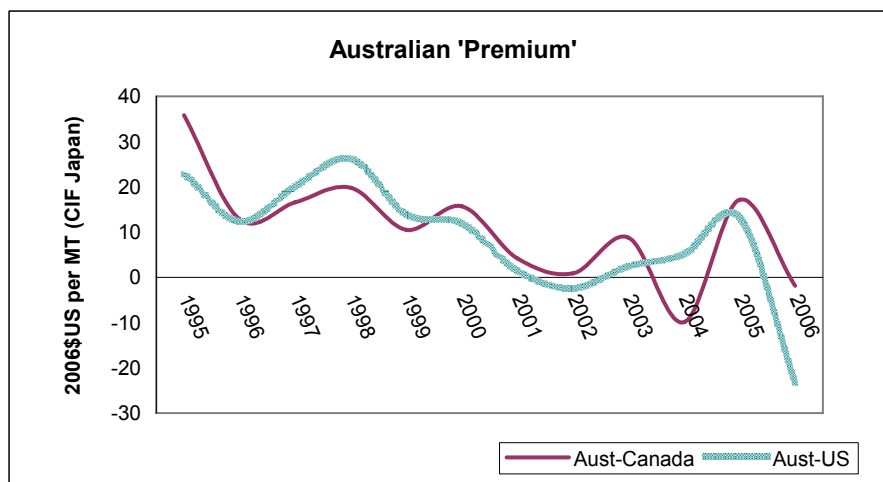
Figure 6 Feed Barley Prices (CIF Japan) and Australian Exports



Source: South African Grain Information Service.

The Authority also examined import prices for Australian feed barley into the Japan market. Barley is considered to be a premium feed product by Japanese livestock producers.¹¹³ Prices show lower variability than the annual Australian export volume to Japan (Figure 6), with total returns highly dependent on seasonal conditions.

Figure 7 Feed Barley Price Trend – CIF Japan



Source: USDA Gain Reports, Japan Grain and Feed Annual Reports (various).

¹¹¹ International Grains Council 2007, Grain Market Report, London; Alberta Barley Commission 2007, Barley Country October 2007.

¹¹² Daily cash prices offered by AgraCorp, GrainCorp and Glencore as at 12 November 2007. Quoted prices are FIS (Free-in-store). To compare the FIS price to the equivalent FOB price, the costs of storage and moving the grain from the in-store terminal to the vessel need to be added to the FIS price.

¹¹³ Enhances fine marbling of the meat.

Reviewing Australian feed barley exports to Japan, during the period 1997–2001 the average Australian price premium over prices received by Canadian and US exporters was US\$14 per tonne. However, over the period 2002–2006 this premium had declined to an average US\$1 per tonne (Figure 7).

Price premiums may have been evident in the earlier period due to:

- Australian barley having superior quality and consistency
- the buying policies of Japan

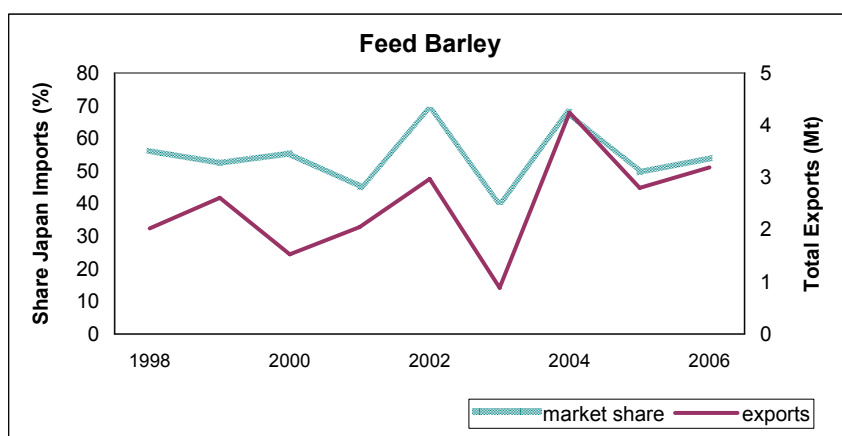
A Canadian study noted that Japanese traders had considered Australian feed barley as superior to both U.S. and Canadian barley in both quality and consistency.¹¹⁴ A NCC review of the Victorian/South Australian barley export market found that price premiums had been obtained by the Australian Barley Board in two markets, namely Japan and the United Arab Emirates. However, it also found that these premiums occurred due to the buying policies of these nations rather than the exercising of market power on the part of the ABB.¹¹⁵ Prior to 2002, all feed barley imports into Japan were purchased through the Ministry of Food (the Japanese Food Agency). The introduction of the SBS tendering process has resulted in more transparent commercial transactions.

Comparisons between recent Australian and Canadian domestic canola prices have been used to propose the existence of a price premium for Australian canola on the basis of its non-GM status (noting that the EU does not import GM canola). However, the Australian Bureau of Agricultural and Resource Economics (**ABARE**) notes that GM canola is generally accepted as readily as conventional canola in the main traditional import markets for canola and concludes that the great bulk of GM canola (primarily from Canada) is sold at very similar prices to conventional canola in most major canola markets.¹¹⁶

MARKET SHARE

An examination of the main WA export feed barley markets, namely Japan and Saudi Arabia, show that the volume of exports and the variation in market share are highly dependent on seasonal conditions.

Figure 8 Feed Barley – Total Australian Exports & Market Share of Japan Imports



Source: USDA Gain Reports, Japan Grain and Feed Annual Reports (various); ABARE Crop Reports.

¹¹⁴ Sparks Companies Inc. 2004, *The Canadian Barley Industry in Transition: A Study for Alberta Agriculture, Food and Rural Development*, April 2004.

¹¹⁵ NCC Community Information 2000, *Securing the Future of Australian Agriculture*.

¹¹⁶ ABARE 2007, op. cit.

Over the period 1998–2005, the average share of Japan’s feed barley imports were Australia (54 per cent), Canada (16 per cent) and the US (26 per cent). The correlation between total Australian feed barley exports and the share of Japan imports is illustrated in Figure 8.

Variation in market share due to seasonal conditions is particularly evident in the outcomes for the 2003 and 2004 seasons. In 2003, drought conditions in Australia and Canada resulted in the lowest barley exports from these countries over the study period. Australian feed barley exports were around 25 per cent lower than the 9 year average and the Australian share of Japan’s feed barley imports fell to 40 per cent (compared to the average 54 per cent). In the following year (2004) Australia had the highest production over the study period and the import share peaked at 70 per cent.

An examination of the Saudi import barley market (where 80 per cent is used for feed) showed a similar outcome. For the period 2001–06, the average market share for Australian imports was 25 per cent. In 2003 the Australian share was a low 3 per cent, compared to a 59 per cent share in 2004.¹¹⁷

¹¹⁷ USDA Gain Reports, Grain and Feed: Saudi Arabia Annual Reports (various).

Appendix 3: Summary of Issues

Appendix 3 contains a summary of the issues raised throughout the paper.

- 1) Does the GLA assessment criteria adequately reflect the purpose of the Act, namely to maximise the benefit of market competition?
- 2) Are the recent modifications to GLA policy, including the introduction of early season and multi-year licences, likely to encourage SEL holders to make investments required in infrastructure in the State to cater for niche and emerging specialist markets?
- 3) Interpretation of the Guidelines and application of discretionary powers can impact on the transparency of GLA decisions. Would amendment of the Guidelines and/or Act clarify the GLA assessment process?
- 4) What are the reasons for actual SEL exported volumes being significantly less than the volumes granted by the GLA?
- 5) What issues does the Authority need to consider in reviewing the effectiveness of the GLA?
- 6) What evidence is there of the relative benefits/costs of the GLA/GPPL framework for:
 - industry price premiums arising from the exercise of market power;
 - quality control and value-adding;
 - the coordination of research and development; and
 - competing effectively in the international grain market.
- 7) What are the advantages/disadvantages of the current pool/contract options?
- 8) Do the current quality standards and schemes meet growers' requirements?
- 9) Are the current licensing requirements (including fees) efficient?
- 10) What other issues does the Authority need to consider in reviewing the effectiveness of current restrictions on grain marketing?
- 11) What possible amendments could enhance the effectiveness of the current GLA framework?
- 12) What are interested parties' views on adopting a SA-style regime?
- 13) What are interested parties' views on fully deregulating the export grain market?
- 14) What other issues does the Authority need to consider in reviewing the effectiveness of the current and potential regulatory frameworks?

Appendix 4: Glossary

Term	Definition
ABARE	Australian Bureau of Agricultural and Resource Economics
ACCC	Australian Competition and Consumer Commission
Act	<i>Grain Marketing Act 2002</i>
Authority	Economic Regulation Authority
Authority Act	<i>Economic Regulation Authority Act 2003</i>
AWB	Australian Wheat Board
AWBI	AWB International
CBH	Cooperative Bulk Handling Ltd
CIF	Cost, Insurance and Freight
CWB	Canadian Wheat Board
ESC	Essential Services Commission
ESCOSA	essential Services Commission of South Australia
EWC	Export Wheat Commission
FIS	Free in Store
FOB	Free on Board
GLA	Grain Licensing Authority
GPPL	Grain Pool Pty Ltd
GPWA	Grain Pool of Western Australia
MEL	Main Export Licence
NACMA	National Agricultural Commodity Marketing Association
NCC	National Competition Council
NCP	National Competition Policy
QAS	Quality Assurance Scheme
SEL	Special Export Licence
SBS	Simultaneous buy and sell
WEA	Wheat Export Authority