

**Submission to ERA of the *Review of the Grain
Marketing Act 2002***

by

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I am writing this submission to the ERA as both a grain farmer and producer member of the Grains Licensing Authority (GLA) although the views expressed here are mine and it cannot be assumed that they are the official view of the GLA.

1. Ascertaining price premiums and protection of the Main Licence Holder.

The GLA has a number of guidelines that it must follow, including those laid out in the Act, the Ministerial Guidelines and the GLA's Operating Procedures, published to help applicants in the preparation of Special Export licence applications.

The purpose of the Act, and the accompanying Ministerial Guidelines, is to protect the supposed advantages of the single desk. This is achieved by protecting those markets where it can be shown that the Main Export Licence Holder (MEL) receives a premium due to the existence of the single desk.

The GLA has had reports done by three independent analysts (Advance Trading Australia in 2006, Storey Marketing Services in 2005, and Farm Horizons in 2004). None of these reports has found the existence of any premium in any market due to the single desk.

The reports do identify premiums in some markets, but they are due to other issues such as quality, freight advantage and/or grain availability timing issues. None has found any premium that can be attributed to the single desk!

The situation facing the GLA is also becoming more difficult as less tonnage is being delivered to the pool and more is being sold for cash. Pools themselves have evolved, with Grain Pool now actively marketing contract pools. Producers can contract into these pools, but they can shut at any time to preserve value. They are not a true Harvest Pool, which carries the obligation to receive all grain that meets quality guidelines into that pool. It

is the true Harvest pool that the Act seeks to protect, but it could be argued, as there is no longer any true Harvest Pools therefore deregulation is the logical next step.

Some of the questions the GLA must grapple with are; Which of the long term markets should they protect? Is the market a pool market or cash market or a combination of both?

At present GLA tends to have a hands-off approach to any customers that the MEL has dealt with in the past. This leads to some farcical situations where an SEL may sell grain sourced from another Australian state or another country to a particular buyer, but are unable to export West Australian grain to that buyer.

It has taken from the proclamation of the Act in 2002 until 2007 to clarify the position of Agracorp, its relationship to Grain Pool, and how it functions. Understanding this relationship has changed the way the GLA will function in future. However, if the GLA is going to continue to fulfil a similar role in future, more information should be provided to them. They really need to have unfettered access to information of the deals between Agracorp and Grain Pool.

Any form of regulated marketing that involves having a “Main Export Licence Holder”, or any other regulated monopoly, is only going to protect that licence holder at the expense of competition.

2. Criticisms of the Licensing System

Grain Pool have been very critical of the GLA and the licensing system. Much of this criticism has revolved around the failure of SEL holders to execute their licenses.

There are many reasons for this, which I am sure the SELs themselves will explain. From my viewpoint the main problems are:

- The behaviour of CBH and the difficulty of retrieving grain from CBH storage. This may be because of the Export Accumulation Fee charged to exporters other than Grain Pool to retrieve tonnage out of warehousing. There has also been a failure to facilitate grain swaps, making it impossible for SELs to aggregate small tonnages.

- Being unable to accumulate grain until after the granting of a licence. Opportunities may be quite short-lived and if exporters have to go through the process of applying for a licence before they are allowed to accumulate grain they can miss business opportunities.
- Restrictions on market access and particular buyers due to the “protection” of the MEL.
- Logistical difficulties of accumulating limited tonnages, spread out over a large part of the grain growing belt.
- Closure of some port facilities at critical times such as Albany, post the 2005/2006 harvest.

There has also been the accusation that non-exported tonnages accumulated by SELs are dumped back into the pool. This is a total fiction and not one tonne has been, nor can it be, reverted back to the pool.

Other criticisms that have come from SELs centre around the lack of transparency in GLA decisions. This is often difficult because of commercially confidential information given to the GLA by Grain Pool. This highlights the impossible position occupied by the GLA, being tasked at once with protecting the MEL and promoting competitive behaviour..

A very apparent criticism of the GLA by SELs is the costs associated with applying for a licence under this system. The fees system is not logical and bears no resemblance to the true cost of the analysis required to grant that licence. This point will be covered in the official GLA submission.

Regardless of the outcomes of this review I see it as critical that there is some form of essential services legislation instituted to ensure access to critical infrastructure that was built by the growers for the use of growers. The tying up of all grain port loading by CBH is imposing a severe cost on other potential exporters and it was an oversight in the 2002 Act that no access regime was included.

3. Changes to the current legislation.

The changes required to the current legislation will depend upon the recommendations made.

If the licensing system is going to continue in a similar form to present then there are some important changes that need to be made:

- The requirement for a licence prior to accumulation of grain needs to be removed. It is not enforceable from a GLA perspective and it limits the flexibility of potential exporters.
- Removal of requirement for a Main Export Licence holder
- Removal of consideration of the “state’s reputation”. Rather any standard should rely on existing export quality controls (AQIS)
- Changes to the fee structure.
- More emphasis on increasing competition and less on protecting the single desk.
- GLA would need improved access to Grain Pool records.

4. Conclusion

The GLA has been successful in introducing competition into the coarse grain market in WA. There has been a smooth transition from a pure single desk system to a partially deregulated licensing system. It is now time to fully deregulate.

WA has the only Canola and Lupin single desk in the world. If not for a court case in Canada, WA would also have the only barley single desk. The mere thought that a marketer with a small world market share can extract some premium above world parity price is ridiculous.

By continuing with a licensing system a significant cost is being imposed on the producers of Western Australia for no benefit. This is even more marked with the impending end of a regulated wheat market in Australia.

Previous studies have shown that Canola should never have been regulated prior to the 2002 Act. Lupins have been a particular victim of controlled marketing and their demise as crop in WA can to a large degree be attributed to their being a prescribed grain. Many smaller exporters have been hindered in their market development, while Grain Pool have made no effort to raise the profile of lupins.

There has been some talk of moving to a South Australian model. The SA model is just a transitional model and there is no point in following one transition model with another. The sensible policy response will be full-deregulation

Whatever happens with the outcome of this review it is imperative that some access regime is introduced to ensure that CBH can no longer hinder access to the infrastructure in this state. The facilities were built and financed by the growers for the use of the growers and as such must be available for use by all exporters.