

Draft Report

Review of the
Grain Marketing Act 2002

7 April 2008

Economic Regulation Authority



WESTERN AUSTRALIA

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Executive Summary

The Treasurer gave written notice to the Authority on 29 November 2007 to undertake a review of the *Grain Marketing Act 2002*. This report presents the Authority's draft findings and recommendations and invites interested parties to provide a submission to the Inquiry.

Under the *Grain Marketing Act 2002 (Act)*, the regulatory and marketing functions in Western Australia (WA) for prescribed export grains (barley, canola and narrow leaved lupins) were separated to meet National Competition Policy requirements. The Grain Licensing Authority (GLA) was established as the regulatory authority for prescribed grains in WA. The Grain Pool Pty Ltd (GPPL) was granted the main export licence. The GLA was given the authority to grant special export licences (SEL's) to other grain marketers for bulk exports of prescribed grains. The *Act* allows for unrestricted export of prescribed grains in bags and containers.

A statutory review of the *Act* was scheduled for 2007.

The Terms of Reference required the Authority to consider the implications of relevant changes in grain marketing in Australia and internationally. There have been a number of changes in the bulk export marketing of grain in recent years, with all States, bar Western Australia, now having deregulated markets for the export of coarse grains. Internationally, Canada remains the only other key exporter with restrictions on bulk exports of grain. However the Canadian Government is moving to remove these restrictions on grain exports.

As part of this review, the Authority is required to consider the net public benefit of restrictions on the export of prescribed grains. The purpose of the *Act* is to maximise the benefit of market competition while retaining any premium arising from the use of a single desk type arrangement and the associated exercising of market power.

In granting a special export licence 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.

In order to inform the GLA's decisions, the GLA has engaged consultants to examine the existence and extent of market power price premiums. On the available evidence, there is no indication that single desk marketing results in price premiums for Western Australian canola or lupins. Regarding barley, there is a potential for price premiums for Western Australian malting barley into Japan. However, the studies indicate that it is difficult to quantify whether price premiums for barley are due to market power or reflect other factors such as seasonal premiums or grain quality.

In addition, the Authority notes that studies have found that single desk objectives including price/quality premiums, economies of scale in marketing and year-round quality supply can be achieved in a competitive market.

The GLA is also required to consider the State's reputation as a grain exporter and the State's grain industry generally when granting SEL's. The matters to be considered include, but are not limited to, issues of quality and financial capacity. In recent years the more frequent reason given for declining SEL applications is that of protecting the State's reputation than of protecting price premiums.

The Authority accepts that grain quality and the ability to fulfill contractual agreements/volumes are key factors impacting on the reputation of the Western Australian grain industry. However, it is difficult to see how allowing multiple sellers (suitably accredited) into export destinations or greater price competition (including price cutting) could directly undermine the State's reputation.

The Authority considers that the GLA has allowed growers to transition from the single desk environment to a market with multiple traders of grain. However, the Authority considers that retaining the current restrictions on the export of barley, canola or lupins is unlikely to deliver a net public benefit, with the removal of the current licensing requirements likely to lead to greater competition in the WA grain accumulation market.

In Australia, the Federal Labor Government intends to remove the single desk arrangements for bulk wheat exports and replace this with a system of exporter accreditation from July 2008. Following this change, Western Australia would be the only State in Australia to retain legislative restrictions on grain marketing.

The Authority considers that an accreditation system for prescribed grains is unlikely to deliver significant benefits. However, the Authority notes that the State Government may consider an accreditation scheme appropriate for exporters of prescribed bulk grain from WA, reflecting a desire for consistency with the proposed Federal wheat export scheme. If this is the case, the Authority believes that all grain exporters that have already been accredited by a regulatory agency should, by default, receive accreditation for prescribed grain exports. Traders who don't already have accreditation (i.e. for Australian wheat exports or South Australian barley exports), but who wish to export prescribed grains from WA, could be licensed under an accreditation system for prescribed grains.

For efficiency reasons, an accreditation scheme for prescribed grain exporters would best be administered by the State Minister for Agriculture and Food. The Authority believes that there would be limited demand for this service given that the prescribed grain exporters currently operating in Western Australia either have ESCOSA accreditation or would be expected to apply for wheat export accreditation.

In addition, there are existing industry-wide quality assurance arrangements which apply to grain sales and the majority of grain traders are members of the National Agricultural Commodities Marketing Association (NACMA). NACMA has established commercial grain standards and trade rules which are used for the majority of grain contracts. This outcome would continue regardless of whether an exporter was licensed under an accreditation scheme.

Given the above considerations, and in light of the timetable for proposed changes to bulk wheat exporting arrangements, the Authority's draft recommendation is that new arrangements should be put in place for prescribed grain exports, preferably before the 2008/09 harvest.

The Authority's draft recommendations for grain marketing arrangements are that:

- barley, canola and lupins should no longer be prescribed;
- the GLA is no longer required to assess export licences; and
- the *Grain Marketing Act 2002* should be repealed.

The Authority notes that access to infrastructure is a critical element to ensuring competition in the accumulation of Western Australian prescribed grains. The Authority

believes that total deregulation of the grain export market would address current barriers to effective market competition and deliver enhanced liquidity in the market. The opening up of the wheat export market and increased grain marketing competition would be likely to address a number of stakeholder concerns, including the ability of grain traders to compete effectively in the market.

Under the new Federal wheat export scheme, there is expected to be a CBH access undertaking regarding wheat exports from Western Australian port facilities. CBH has indicated it will offer similar conditions for exports of other grains. An ACCC-approved access undertaking has the potential to address a number of stakeholder concerns regarding access to port facilities.

Key Findings and Draft Recommendations

- 1) Following the anticipated removal of the Commonwealth restrictions on the export of wheat, Western Australia would be the only State in Australia to retain legislative restrictions on grain marketing. Internationally, Canada is the only other key exporter to maintain restrictions on coarse grains, although this is likely to change in the near future.
- 2) The *Grain Marketing Act 2002* contains a provision for expiry following the removal of restrictions under Commonwealth legislation on the export of wheat. Under this provision, the Minister may move to allow the *Act* to expire, thereby removing the current restrictions on the bulk export of barley, canola and lupins.
- 3) The introduction of the GLA has been effective at increasing grain market competition, which has provided a greater range of selling options for growers of prescribed grains.
- 4) The more frequent reason given by the GLA for declining SEL applications is that of protecting the State's reputation. The Authority accepts that grain quality and the ability to fulfill contractual agreements are key factors impacting on the reputation of the Western Australian grain industry. However, the Authority notes that allowing multiple sellers (with financial capacity) to trade WA grain into export destinations or associated price competition (including price cutting) is unlikely to undermine the State's reputation.
- 5) On the available evidence:
 - there is no indication that single desk marketing results in price premiums for barley, canola or lupins; and
 - there does not appear to be a net public benefit in retaining restrictions on the bulk export of barley, canola or lupins.
- 6) Since the *Act* was introduced, there has been a shift from traditional harvest pools to contract pools and cash trading as the dominant method for buying export grain.
- 7) It is likely that the entry of multiple export traders and the associated competition for pool/cash trades has improved GPPL's operation of pools and cash acquisitions for prescribed grains.
- 8) Further analysis would be required to assess whether GLA fees and charges are reflective of the costs involved in evaluating licence applications.
- 9) Regarding licensing requirements, the Authority finds that these requirements adversely impact on the ability of the SEL holder to compete in the prescribed grain export market.
- 10) Access to infrastructure is an important element in ensuring competition in the accumulation of Western Australian grains.
- 11) Deregulation of the wheat industry is likely to lead to investment in Western Australia, resulting from multiple traders having access to larger quantities of grain and the increased certainty for traders to export wheat.
- 12) The removal of the current licensing requirements is likely to lead to greater competition in the WA grain market.
- 13) The introduction of a SA-type accreditation system for prescribed grains is unlikely

to deliver significant benefits.

14) The Authority's draft recommendations for future grain marketing arrangements in WA are that:

- barley, canola and lupins should no longer be prescribed;
- the GLA is no longer required to assess export licences; and
- the *Grain Marketing Act 2002* should be repealed.

15) Given the introduction of the new Federal wheat export scheme, it would be preferable that the recommended arrangements for barley, canola and lupins exports be in place for the 2008/09 harvest.

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 (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

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).

- the need to promote transparent decision making processes that involve public consultation.

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 (**SA**), 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.
- SA further reviewed export marketing arrangements in 2003, resulting in the deregulation of barley export marketing in 2007.
- The New South Wales (**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 (in 1999)³ of the *Grain Marketing Act 1975* 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.

² *Grain Marketing Amendment Act 1997*.

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

Section 48 of the *Grain Marketing Act 2002* also requires that the Minister carry out a review of the operation and effectiveness of the *Act* as soon as practicable after:

- a) the expiration of 5 years from the commencement of this Act; or
- b) in the Minister's opinion, a material change occurs in the ownership or control of —
 - i. Grain Pool Pty Ltd; or
 - ii. Co-operative Bulk Handling Limited, a company incorporated under the Companies Act 1893, and deemed to be registered under the Companies (Co-operative) Act 1943, whichever occurs first.

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 Western Australia can be enhanced.

1.3 Review Process

The recommendations of this inquiry are informed by the following public consultation process:

- The Authority published an Issues Paper on 5 December 2007 and invited submissions from stakeholder groups, industry, Government and the general community on the matters in the Terms of Reference.
- Ten submissions were received in response to the Issues Paper. These can be viewed on the Authority's web site.
- Further public submissions are invited on this Draft Report, by Friday 16 May 2008.
- In accordance with the Terms of Reference, the Authority must present its Final Report to Government by 27 June 2008.

In accordance with section 45 of the *Economic Regulation Authority Act*, the Authority is acting through the Chairman and Members in conducting this inquiry.

1.4 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 or electronic form 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 4.00pm WST Friday 16 May 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 submission in confidence, it should clearly indicate the parts of the submission for which confidentiality is claimed and specify in reasonable detail the basis for the claim.

The receipt and publication of a submission on the Authority's web site 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 part contains information of a confidential nature and no duty of confidence will arise for the Authority.

Further information regarding this inquiry can be obtained from:

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2 Grain Industry Overview

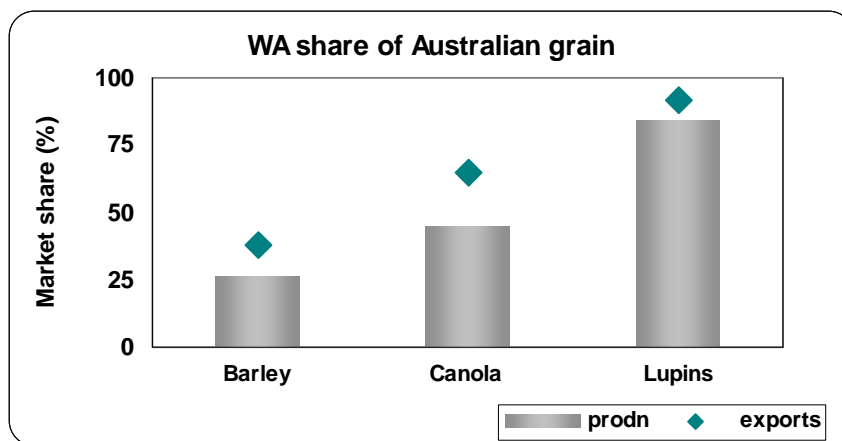
2.1 The WA Grain Market

Grain production is predominantly undertaken in the southern region of the State. The major regions for barley production are in the Albany and Esperance port zones, representing 60 per cent of total receivals.⁴

While only having around 19 per cent of grain growers, WA is the largest grain producing State (average 38 per cent of winter crop production).⁵ The higher production share reflects WA grain enterprises being relatively larger, more specialised and having achieved higher levels of productivity growth compared to producers in other States.⁶

WA is also the major grain exporting State, accounting for around 50 per cent (by tonnage) of national grain exports in 2005/06.⁷ Figure 2.1 illustrates that WA's market share of Australian exports is greater than its relative production of barley, canola and lupins. This reflects the fact that there is a limited domestic grain market (particularly when compared to NSW and Victoria) and the majority of WA grain production is exported.

Figure 2-1 Grain Market Share 2005/06



As discussed in Chapter 1, the Australian domestic and export grain market has gradually been deregulated over the past decade. Currently only WA has State legislation which regulates grain exports (barley, canola and lupins), while SA has an accreditation system for barley exporters.

⁴ Department of Agriculture and Food WA 2006, *Western Australia's Agri-food, Fibre and Fisheries Industries 2006*.

⁵ ABS Agricultural Commodities 7121.0; ABARE Crop Report February 2008. Note that winter crops includes barley, canola, lupins and wheat.

⁶ Pannell D.J and Kingwell R. 2004, Economic trends and drivers affecting the grainbelt of Western Australia to 2030, CRC for Plant-Based Management of Dryland Salinity and School of Agricultural and Resource Economics, University of Western Australia, Department of Agriculture WA.

⁷ Department 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.

In comparison, wheat exports from all jurisdictions of Australia continue to be regulated by Federal legislation. However, the Federal Government intends to remove the current single desk arrangements for the export of wheat before the commencement of the 2008/09 harvest. Wheat export arrangements are discussed further in Chapter 3.1.

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 leafed) 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.⁸

A Ministerial review of the WA grains industry was undertaken in 1995.⁹ 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;¹⁰
- 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,¹¹ and removed linseed from the list of prescribed grains.

A Departmental review of the *Grain Marketing Act 1975* was conducted in 1999 as required under the NCP framework. The review recommended retention of the single export desk (i.e., 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.¹²

Under the *Grain Marketing Act 2002 (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.

A review of the Parliamentary debate during the second reading speech of the Grain Marketing Bill 2002 indicates that the *Act* was implemented to ensure compliance with the National Competition Policy and also to retain the benefits of single desk marketing by granting the main export licence to Grain Pool Pty Ltd (**GPPL**).

⁸ *Grain Marketing Act 1975*, Part II, Part III, s.22A.

⁹ CIE 1995, *Grain Marketing in Western Australia: A Blueprint for the Future*.

¹⁰ Value adding is any process that changes the physical characteristics of the grain.

¹¹ Allowed under a permit system administered by the Grain Pool, however exports to Japan and Thailand were not permitted due to existing contractual arrangements. Reference: *Grain Marketing Amendment Bill, Second Reading*, October 16, 1997.

¹² Department of Agriculture WA 1999, *op.cit.*

The Hon Kim Chance, MLA stated:

The Grain Pool was therefore both the marketer of prescribed grain for export and the regulator of the circumstances under which anyone else could export prescribed grains.

Although this system served grain growers well by providing a stable and assured market return, it was not viewed by the National Competition Council as compliant with National Competition Policy. The Grain Marketing Bill 2002 addresses this compliance issue by clearly separating the regulatory and marketing functions in relation to the export of prescribed grains. Under the new legislation, the regulatory function - the granting of the main export licence and any special licences - will be exercised by the Grain Licensing Authority, a body with no marketing role.

The Bill also seeks to retain the benefits of the single desk by initially granting the main export licence to Grain Pool Pty Ltd.¹³

On enactment of the *Act*, the assets of the GPWA were transferred to the 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.

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;¹⁴
- 2) sell for the cash price on offer at the time of harvest or after warehousing;¹⁵ and/or
- 3) deliver the grain into a pool to receive an averaged price, typically over a 15 month time period.¹⁶

As the marketing subsidiary of CBH, GPPL markets around three million tonnes of grain annually or around 90 per cent 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.¹⁷

In addition to GPPL/AgraCorp, there are a number of other traders active in the WA market (e.g. ABB Grain and Glencore) 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, export in bags or containers, onsell to other grain traders or sell the grain domestically.

The structure of the WA bulk export grain market is summarised in Figure 2.2.

¹³ K Chance, (Minister for Agriculture and Food) 2002, *Second Reading*, Grain Marketing Bill 2002.

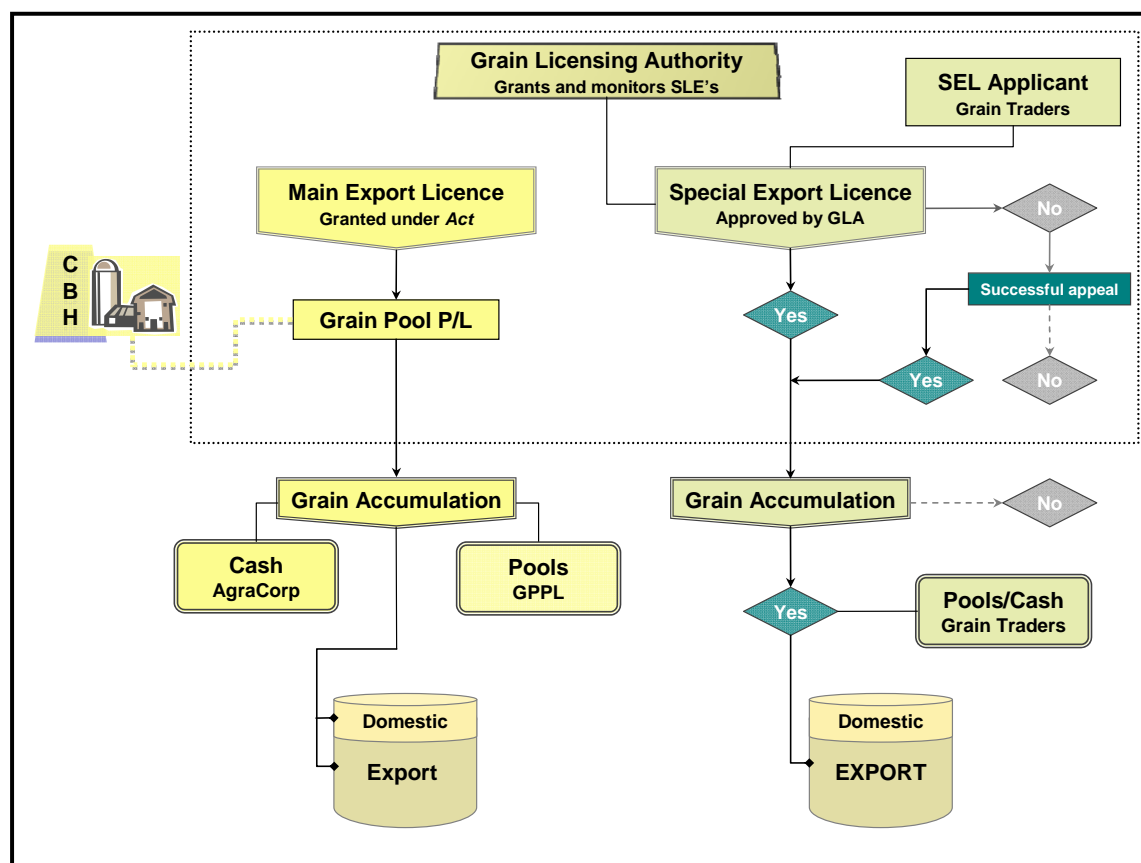
¹⁴ A forward contract allows the seller to contract for future delivery of a specific quantity and quality of a commodity at a guaranteed price.

¹⁵ 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.

¹⁶ Department of Agriculture and Food WA, Barley marketing and economics, web site information.

¹⁷ CBH Group, Annual Reports, various.

Figure 2-2 WA Bulk Export Grain Market



2.2 Storage, Handling and Freight

The supply chain from the grain grower to export shipping involves two main grain supply routes. Either the grain grower can deliver the grain via road transport to an up-country storage silo or to a near-port storage facility. In most cases, once the grain is delivered to a storage site, grain marketers contract to buy the grain from the grower. From this point forward, the grain marketer owns and controls the grain. From an up-country storage silo, export grain is transported to a port terminal, either by road transport or by rail. The grain storage and handling companies, though an integral part of the supply chain, do not own the grain at any point (unless the grain storage and handling company is also the grain marketer).

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)¹⁸ 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.¹⁹

¹⁸ 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*.

¹⁹ AWB 2007, Submission to the Wheat Export Marketing Consultative Committee, Feb 2007.

CBH owns and operates the major storage and handling facilities in WA, including facilities at the four major grain ports. The combined storage capacity of these port facilities is 3.3 million tonnes, with throughputs of around 9.5 million tonnes per year.²⁰

The total storage capacity of the CBH network is approximately 19 million tonnes. Grain receivals for the 2007-08 season are a total of 8.5 million tonnes, with around 70 per cent of receivals being wheat and 20 per cent being barley.²¹

Given the recent partial deregulation of wheat exports (via containers only), traders in all States can now export any grains via containers. With higher freight rates for bulk exports, containerised exports have become more competitive. However in WA, the shortage of spare containers is a constraint on the expansion of containerised grain exports.²²

Wheat is the major throughput in the grain handling and transport system, accounting for around 80 per cent of grain exports.²³ Depending on the size of the harvest, grain comprises around 15 per cent of the total freight volume (50 million tonnes) on the WA rail network.²⁴

The supply logistics (including the relative rail/road freight differentials) will determine the share of grain delivered by the relative transport modes. For example, the majority of grain is delivered by rail freight to the Kwinana terminal, while for the Esperance terminal the majority is delivered via road freight. In WA, around 60 per cent of grain is transported via rail in an average season, with the remainder transported by road.²⁵ Rail freight also captures a higher percentage of grain freight in an above-average season.

The State Government is currently conducting a review of the WA grain freight network, with a report expected in 2008.²⁶

As part of the Council of Australian Governments (**COAG**) agreements (namely the Competition and Infrastructure Reform Agreement 2006), all States have agreed to review the regulation and effectiveness of competition at major ports (and the associated handling and storage facility operations).

²⁰ ABB Grain 2005, *Ensuring A Profitable And Sustainable Agriculture And Food Sector In Australia*, Submission to the Agriculture and Food Policy Reference Group.

²¹ CBH 2008, Harvest Report, No. 10.

²² The EWC notes that while WA has 44 per cent of wheat exports, it has access to around only 4 per cent of spare containers. Reference: EWC Growers Report 2007.

²³ Meyrick and Associates 2006, *Appendix to Infrastructure Action Agenda: Supply Chain Case Studies*, Prepared for the Australian Logistics Council, Final May 2006.

²⁴ Economic Regulation Authority 2006, Submission to the Productivity Council on the Road and Rail Freight Infrastructure Pricing Draft Report.

²⁵ Georgiades J. (Department of Planning and Infrastructure) 2008, WA's Grain Rail Network – The Supply Chain Coordinators View, Presentation to the PATREC Freight Rail Economics Symposium, 12 March 2008.

²⁶ Department of 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 sections of the narrow gauge rail system that are used solely for grain freight.

2.3 Research and Development and Quality Standards

Research and development 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.²⁷

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 the Australian Securities and Investments Commission regarding statutory obligations under the *Financial Services Reform Act*.²⁸ In addition, the grain industry is in the process of adopting Quality Assurance Schemes (QAS) which include independent verification of quality standards.²⁹ In its submission, CBH notes that the receipt, storage, handling and marketing of the grain by GPPL is certified to CODEX HACCP Principles.³⁰

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.

Barley

The major exporters of barley are the European Union (**EU**), Australia, Ukraine and Canada. Australia and Canada together account for approximately a 50 per cent market share of world barley exports. 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.³¹

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.³²

²⁷ 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. Reference: Department of Agriculture WA, Farm Weekly Budget Guide 2006.

²⁸ NACMA 2006, op. cit.

²⁹ Department of Agriculture, Fisheries and Forestry Australia 2000, Submission to the Taskforce on Industry Self-regulation, Submission No. 28, January 2000.

³⁰ The United Nation's Codex Committee has adopted the Hazard Analysis Critical Control Point (HACCP) system as the international standard for food safety assurance.

³¹ 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.

³² ABB Grain Ltd 2007, Results Briefing Six Months to 31 March 2007.

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,³³ 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 to 25 per cent while Canadian selection rates average 16 per cent).³⁴

Canola

The canola export trade is dominated by Canada, with a global market share of over 75 per cent (average of 5 Mt exports). Australia is the world's second largest exporter (average 1Mt exports) and Australia's share of recent global canola trade has varied from 22 per cent in 2003/04 to a low of 5 per cent in 2007/08. Western Australia contribution to global canola trade has ranged from 11 per cent in 2003/04 to 5 per cent in 2006/07.³⁵ 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.³⁶ Higher international canola prices are supported by higher vegetable oil prices (partly led by strength in crude oil values),³⁷ higher soybean prices, and increased demand (particularly in the EU) for biofuels. Canola oil is viewed as the premium oil for producing bio-diesel due to its comparatively large production volumes, lower processing costs and the quality of the resulting biodiesel.³⁸

Australian canola meal has around 20 per cent less protein than the US soybean meal,³⁹ 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.⁴⁰

Lupins

Although WA is the world's largest producer of lupins, production has been declining in recent years. Production in 2007/08 is expected to be around 210kt, compared to the five year average to 2005/06 of 864kt.

³³ The key factors are the protein content (preferred range of 9.5–11.5 per cent), extraction rates, plumpness and germination.

³⁴ Agriculture and Agri-food Canada 2006, op. cit.

³⁵ GLA 2008, op. cit.

³⁶ Note that the Winnipeg Canola Exchange bases its contracts on a 40 per cent oil/60 per cent meal contribution per tonne of canola seed crushed.

³⁷ PROFARMER 2007, Bulletin September 2007.

³⁸ BlueDiesel 2007, Technology and Production Overview, December 2007, WA.

³⁹ Australian Oilseeds Federation 2004, *Canola Meal – Limitations and Opportunities*.

⁴⁰ Australian Bureau of Agricultural and Resource Economics (ABARE) 2007, 'Market acceptance of GM canola', *ABARE Research Report 07. 5*.

Lupin exports have declined significantly since 2001/02,⁴¹ with only the 2005/06 harvest delivering a significant volume of exports.⁴² Currently, the majority of lupins produced in WA are used on farm as animal feed, sold domestically or shipped in containers.⁴³

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.⁴⁴

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.⁴⁵ Conversely in 2007, with a downgrading of the Northern Hemisphere barley harvest, Canada was the dominant exporter and obtained a relatively high market price of US\$311 per tonne (FOB) for malting barley.⁴⁶

During the period 1995–1999, the average price premium for Australian feed barley over Canadian and US exports of feed barley to Japan was US\$19 per tonne. However, over the period 2000–2007, this premium had declined to an average US\$2 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 1999, all feed barley imports into Japan were purchased through the Ministry of Food (the Japanese Food Agency). The introduction of a tendering system has resulted in a more transparent sales process.

For canola, average export prices for Australian canola (non-genetically modified [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.⁴⁷

⁴¹ Grain Licensing Authority (GLA) 2008, Submission to the Economic Regulation Authority for the Review of the *Grain Marketing Act 2002*.

⁴² There were 634kt delivered to GPPL in 2005/06, of which 85 per cent was exported. Reference: CBH Group Media Release, *Grain Pool pays growers more than \$50 million in 2005-06 final pool payments*, 1 June 2007.

⁴³ GLA 2008, op. cit.

⁴⁴ Department of Agriculture WA 2004, Bulletin 4635.

⁴⁵ Schmitz A., Schmitz T.G. and R. Gray 2005, *The Canadian Wheat Board And Barley Marketing*.

⁴⁶ CWB 2007, 'Western Canadian malting barley in high demand', News release August 29 2007.

⁴⁷ ABARE 2007, op. cit.

3 Relevant Changes in Grain Marketing in Australia and Internationally

Under the Terms of Reference, the Authority is to consider and report on the implications of relevant changes in grain marketing in Australia and internationally.

3.1 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.⁴⁸
- The Export Wheat Commission (EWC) replaced the Wheat Export Authority 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. In 2007, the Minister for Agriculture, Fisheries and Forestry approved a total of 1.3 million tonnes of bulk wheat exports (by companies other than AWBI),⁴⁹ with 0.45 million tonnes of bulk wheat exports approved in January 2008.⁵⁰
- 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.⁵¹
- 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.

The new Federal Labour Government has proposed new wheat export arrangements, including the removal of monopoly export rights from the AWB.

Under the scheme detailed in the Wheat Export Marketing Bill 2008,⁵² a statutory entity, Wheat Exports Australia (**WEA**), will be established to regulate the export of bulk wheat through a wheat export accreditation scheme. From 1 July 2008, exporters that meet financial requirements and comply with licence conditions will receive accreditation for bulk wheat exports.

⁴⁸ Parliament of Australia 2007, Bills Digest no. 186 2006/07, *Wheat Marketing Amendment Bill 2007*.

⁴⁹ EWC 2008, Growers Report 2007.

⁵⁰ Burke, T. 2008, 'Export permits for bulk wheat', Media Release, Minister for Agriculture, Fisheries and Forestry, February 8, 2008.

⁵¹ WEA 2007, Export Statistics 2006/2007.

⁵² The draft of the Wheat Export Marketing Bill 2008 was released for public comment on 5 March 2008.

Collectively, the industry benefits from a number of industry development functions such as research and development, quality assurance and varietal development, industry receival standards and generic promotion. Historically, the single desk operator, AWBI provided many of these industry functions. The proposed changes mean AWBI will not have a monopoly on wheat exports and there is a need to review the delivery of, and funding for, industry development functions.⁵³

On 6 February 2008, the Government announced the formation of an Industry Expert Group (IEG) to advise on the delivery of wheat industry research and development functions under the new export arrangements. The IEG published a discussion paper (in March 2008) which found that the GRDC had delivered significant benefits and should continue to undertake research and development on behalf of the wheat and other grains industry. A final report is due in April 2008.

Changes to the Federal Government wheat export arrangements have relevance to the operation of the *Grain Marketing Act 2002*. The *Act* contains a sunset clause (section 49) that may be invoked in the event of restrictions on the export of wheat being removed.

- The purpose of this clause is to allow the *Act* to expire when the restrictions on the export of wheat under the *Commonwealth Wheat Marketing Act* are removed. More particularly, it allows the *Act* (other than the provisions empowering the making of transitional regulations) to expire when an order is made by the Minister under sub clause (2). If an order is made, the day specified as the expiry day:
 - won't be retrospective; and
 - will be as soon as practicable after the 30 April next following the relevant Commonwealth legislative change.
- The relevant Commonwealth legislative change will be a change as a result of which there cease to be restrictions on the export of wheat.⁵⁴

There may be some debate as to whether the wheat export arrangements proposed by the Federal Labor Government represent the cessation of restrictions as mentioned in the *Act*.⁵⁵ While the new arrangements would result in the end of the single desk arrangement for wheat marketing, an accreditation process for wheat exporters has been proposed.

The Western Australian Parliamentary debate during the introduction of the Grain Marketing Bill indicates that the 'relevant Commonwealth legislative change' refers to the removal of the single desk policy.

The *Act* will also contain a separate provision for expiry. It is the view of government that the protection to be provided under the new *Act* to the Western Australian grain marketing system is crucial while the national wheat single desk remains in place. Only when this is removed would it be prudent to permit the Western Australian grains export industry to be deregulated. The *Act* will therefore contain a provision to allow its expiry on 30 April next following the removal of restrictions on the export of wheat under Commonwealth legislation.⁵⁶

⁵³ Minister for Agriculture, Fisheries and Forestry, IEG Terms of Reference.

⁵⁴ Grain Marketing Bill 2002 Explanatory Memorandum.

⁵⁵ *Grain Marketing Act 2002* refers to the 'relevant Commonwealth legislative change' as meaning a change to Commonwealth legislation as a result of which there cease to be restrictions under Commonwealth legislation on the export of wheat, whether under the *Commonwealth Wheat Marketing Act 1989* or another Commonwealth Act imposing similar restrictions.

⁵⁶ Hansard, Thursday 26 September 2002, 1666-1668.

A number of submissions commented on the provision for the expiry of the *Act* following the removal of restrictions on wheat export marketing.

At the insistence of the National Competition Council, it was envisaged that the reform of the wheat marketing arrangements would have a flow on effect to the State course grain and oilseed marketing arrangements. As a result a sunset clause was included in the Grain Marketing Act 2002, that retired the Act on relevant Commonwealth legislative change.

In our opinion this clearly constitutes an end to the single desk restriction under Commonwealth legislation, and should trigger the sunset provisions. (PGA, p6)

The inclusion of this clause in the Grain Marketing Act 2002 (WA) clearly establishes that the future of the GLA is based on factors independent of its operational performance. It strongly suggests that the establishment of the GLA is not solely based on the merits of the system or the effectiveness of the GLA's role. (AGEA, p7)

3.2 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.⁵⁷ 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.⁵⁸ Together, the four western provinces produce around 90 per cent of Canada's wheat and barley production.⁵⁹ 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 2013.⁶⁰ The taskforce also recommended that the Government should act to resolve non-competitive grain handling industry behaviour and introduce measures to enhance rail competition.⁶¹

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.

⁵⁷ CWB 2006, Annual Report 2005/06.

⁵⁸ Although CWB does not have shareholders, 10 of the 15 members of the Board of Directors are elected by farmers.

⁵⁹ CWB 2006, Statistical Tables 2005/06.

⁶⁰ 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).

⁶¹ 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.

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. The Federal Court of Appeal has upheld a lower court ruling that the attempt by the Government of Canada to remove the single desk on barley through regulatory change violated *The Canadian Wheat Board Act*. The Court ruled that the 1998 amendments to the *Canadian Wheat Board Act* meant that the government cannot remove the barley single desk by regulation. Instead, the government must consult with the CWB's board of directors and receive farmer approval of the proposed change before introducing new legislation into Parliament.⁶²

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. The SBS system was introduced in 1999 for sales of feed barley and in 2007 for malting barley. Under SBS, the Japanese Food Agency coordinates the sale of imported barley (and wheat) through a tender process. The introduction of the SBS system has significantly reduced the price premium for Australian feed barley into Japan, relative to US feed barley.⁶³ In Saudi Arabia, the Government continues to subsidise feed barley. In China, private enterprises now play an active role in the grain trading business.

3.3 Analysis

The domestic and global grain markets have undergone significant changes since the current marketing arrangements for prescribed grains were introduced in 2002. The future environment for grain markets is expected to be increasingly dynamic, as is noted in the AWB submission.

AWB's view is that there are several significant shifts underway in global and domestic grain markets which, if supported by the right policy settings, could provide opportunities for significant investment in and development of the Western Australian grains industry.

These include:

- Changes to a more competitive wheat export model.
- Consolidation at all levels in the Australian grains industry... which is to a significant extent being driven by the unwinding of statutory arrangements and the increasing commercialisation of the industry.
- Shifts in global supply and demand for grains. Grain prices are currently at record highs. Prices have tended to be volatile in the past, but largely on the back of fluctuations in supply. Whilst the current situation is in part driven by supply shortages, there is also new demand for grains which stems from two seemingly sustainable sources – the rise in incomes and subsequent dietary changes in the developing world, particularly India and China, and the growth in demand for biofuels. (AWB, p1)

⁶² CWB 2008, *CWB versus Attorney General re: barley regulations*, February 26 2008.

⁶³ Farm Horizons 2004, *Price Premiums from Market Power: An assessment of the existence and extent of price premiums which result from market power available to the main export licence holder*, May 2004, prepared for the Grain Licensing Authority.

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.⁶⁴

3.4 Conclusion

There have been significant changes in both the domestic and international grain industry in recent years. Victoria, NSW, Queensland and South Australia have all moved to a deregulated environment for the export of coarse grains. The Federal Government is legislating to remove restrictions on the bulk export of wheat by July 2008 and the Canadian Government is seeking to remove the single desk rights for the export of barley held by the Canadian Wheat Board.

The Federal Government's policy to remove single desk marketing for wheat is significant given that the *Act* contains a sunset clause referring to the removal of export wheat restrictions. The removal of restrictions on the bulk export of wheat by the Federal Government may result in the Minister making an order for the expiry of the *Act*.

Findings

- 1) Following the anticipated removal of the Commonwealth restrictions on the export of wheat, Western Australia would be the only State in Australia to retain legislative restrictions on grain marketing. Internationally, Canada is the only other key exporter to maintain restrictions on coarse grains, although this is likely to change in the near future.
- 2) The *Grain Marketing Act 2002* contains a provision for expiry following the removal of restrictions under Commonwealth legislation on the export of wheat. Under this provision, the Minister may move to allow the *Act* to expire, thereby removing the current restrictions on the bulk export of barley, canola and lupins.

⁶⁴ McMullen, G. 2003, 'Prospects for grain marketing in 2010', *Proceedings of the Australian Postharvest Technical Conference*, Canberra, 25–27 June 2003.

4 Has the Grain Licensing Authority Been Effective?

Under the Terms of Reference, the Authority is to consider and report on the effectiveness of the operations of the Grain Licensing Authority.

4.1 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 the use of a single desk type arrangement and the associated exercising of market power.⁶⁵

As was noted during the introduction of the *Act*:

The provision for special export licences is not intended to undermine the benefits of the single desk and the market power that it creates. The intention is that special export licences will provide a mechanism for industry to capture opportunities outside the single desk system while maintaining the benefits for grain growers that flow from it.⁶⁶

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:

- 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;
- 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)).

The Minister for Agriculture provided a definition of market power in the context of this *Act* during the second reading of the Bill. The Minister noted:

A premium is essentially the market advantage that can be leveraged in a given market by the existence of the single desk; that is, the higher price that can be achieved through a forward-pricing mechanism that comes out of the market advantages that are operated by a single-desk seller, such as security of supply arrangements so that people can go forward with confidence in their sales, against the price that is measured on the spot market on the day or the average of spot markets across a given period. Essentially, it is the price a marketer such as the Grain Pool Pty Ltd can win out of a given market over time against the spot price; that is, the price at which a shipload or hatch load can be picked up from either the ocean, the third-party market or the Australian market.

⁶⁵ GLA 2007, Ministerial Guidelines for the Grain Licensing Authority.

⁶⁶ Logan F.M. (Parliamentary Secretary) 2002, Introduction and First Reading, Grain Marketing Bill 2002.

The methods for calculating this are complicated but the concept is simple. It is simply a premium for quality service.⁶⁷

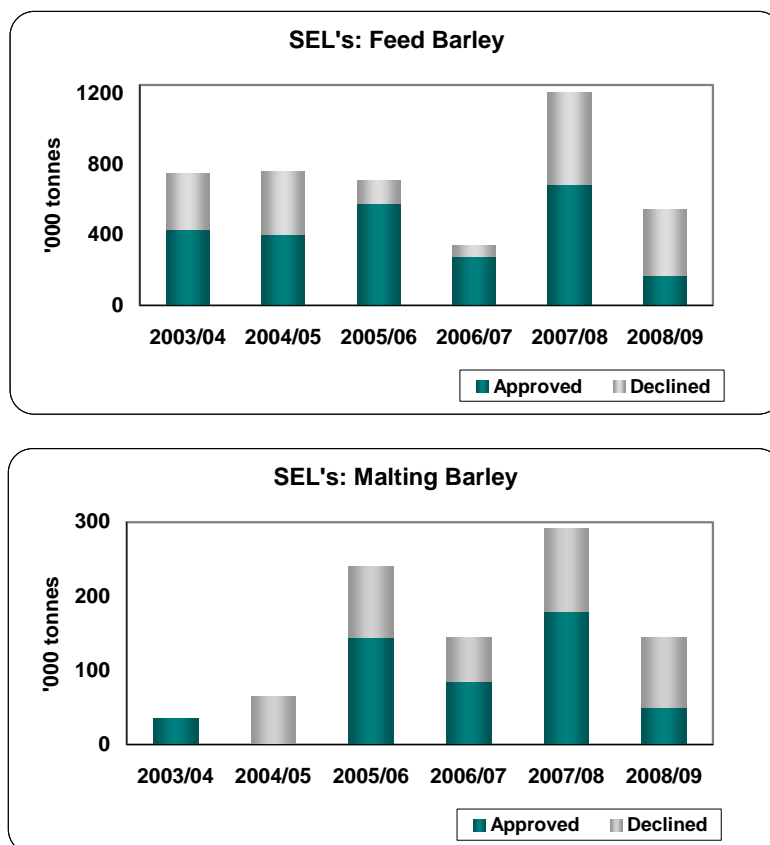
In addition, Ministerial Guidelines issued under the *Act* in relation to Section 31(4) provide for the GLA to consider:

- 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.⁶⁸

4.2 GLA Decisions

Figure 4.1 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 50 and 60 per cent, respectively, of malt and feed barley export tonnage applied for, has been approved by the GLA.

Figure 4-1 Special Export Licence Applications - Barley

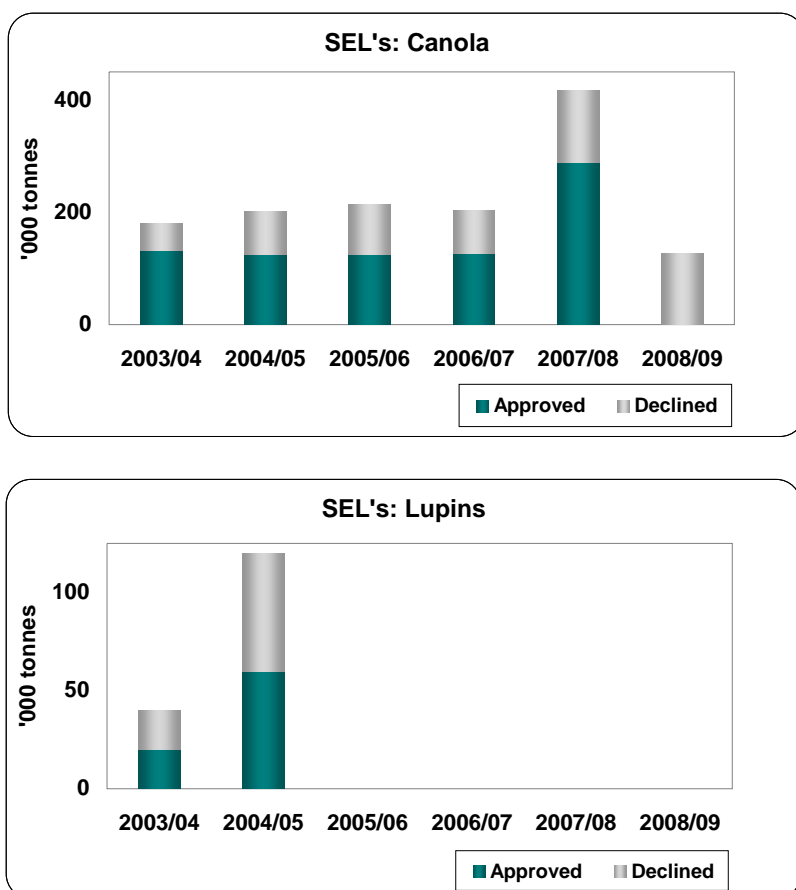


⁶⁷ Chance K. (Minster for Agriculture and Food) 2002, Second Reading, *Grain Marketing Bill 2002*.

⁶⁸ GLA 2007, *ibid*.

Figure 4.2 shows the volume of export canola and lupins approved and declined by the GLA for the period 2003/04 to 2008/09. Over this period, an average 58 per cent of SEL canola tonnage has been approved by the GLA. There have been no applications for lupin exports since 2004/05.

Figure 4-2 Special Export Licence Applications - Canola and Lupins



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 1.1 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.⁶⁹

Under the legislation, the GLA is not required to publish reasons for accepting or rejecting a SEL application (although it does provide confidential 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.

⁶⁹ GLA website, statistics; ABARE, *Australian Grains*, 2004 -2007 issues.

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;
- 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; and
- 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.⁷⁰ Note that the GLA deferred five out of the nine 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.⁷¹

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:⁷²

...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.⁷³ 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.⁷⁴

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.

⁷⁰ GLA 2005, Report to Minister on Operation and Effectiveness for the 2004/05 season.

⁷¹ GLA 2006, Report to Minister on Operation and Effectiveness for the 2005/06 season.

⁷² GLA 2006, Media release 8 May 2006.

⁷³ GLA 2005, op. cit.

⁷⁴ GLA 2006, op. cit.

The results showed that 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.⁷⁵

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.⁷⁶

Regarding its ability to assess premiums the GLA noted in 2006 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 system⁷⁷

In its published decisions, the GLA has noted that both China and the Middle East are highly contested markets based on price competition.⁷⁸ 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.

⁷⁵ GLA 2004, Report to Minister on Operation and Effectiveness for the 2003/04 season.

⁷⁶ GLA 2004, *ibid*.

⁷⁷ GLA 2006, *op. cit*.

⁷⁸ GLA 2006a, 'Two Special Export Licences Approved', Media Release, 8 May 2006.

GLA decisions have been informed by three reviews on the impact of SEL's on the price of prescribed grain in WA. Firstly, the GLA commissioned a statistical analysis on both feed and malting barley prices. The aim of the analysis was to determine if Western Australian barley prices since the commencement of the GLA had increased/decreased comparative to other States (namely SA, Victoria and NSW)⁷⁹.

A second review by the Department of Treasury and Finance⁸⁰ sought to verify the results of the GLA commissioned paper using time specific statistical analysis. The report noted that:

[t]he analysis cannot provide conclusive evidence that the existence of the GLA has been solely responsible for increased cash prices for barley in Western Australia but does show that with declining barley prices over the last six years, Fremantle prices have declined less than other States since the inception of the GLA.⁸¹

At this stage, there is evidence that a relative price premium has emerged after partial deregulation of the Western Australian grain market in August 2003, particularly for feed barley. This reflects the large quantity of feed barley licences issues by the GLA.⁸²

The third report (prepared by Bird Cameron and commissioned by the Minister for Agriculture) found that the benefits to the State of the operation of the Act and the GLA outweighed the relative costs. This review found a net benefit to growers of \$2.9 million for 2003/04.⁸³

With reference to the three reviews, the Department of Treasury and Finance submission notes:

With more licences granted in 2007 allowing private traders to purchase substantially more grain for export, and very much higher grain prices, benefits are likely to be higher than shown by these studies based on earlier data. (DTF, p4)

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

The GLA is also required to consider the State's reputation as a grain exporter and the State's grain industry generally when granting SEL's. The matters to be considered include, but are not limited to, issues of quality and financial capacity. In recent years the more frequent reason given for declining applications 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

⁷⁹ Wilkins, A., D'Antuono, M. and Henderson J. 2006, *Analysis on the Impact of Special Export Licences on Prescribed Grain Cash Prices in Western Australia*. Department of Agriculture and Food WA, June 2006.

⁸⁰ Layman, Bruce(2006), *The Price Impact of Partial Deregulation in the Western Australian Grain Export market*. Economic Policy Division, Department of Treasury and Finance (July 2006).

⁸¹ Wilkins, A. et. al. 2006, op. cit.

⁸² Layman, B. 2006, op. cit.

⁸³ RSM Bird Cameron 2005, *Review of the Benefits and Costs of the Operations of the Grain Marketing Act 2002 and the Grain Licensing Authority*.

- 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).

Regarding factors that impact on the State's reputation, it has been noted that:

The Authority must also consider the effect of granting the special export licence on the State's reputation as a grain exporter and the State's grain industry generally. Matters that may be considered include, but are not limited to, issues of quality and financial capacity.

[c]onditions may be imposed on a special export licence. These include conditions as to the quality and season of production of the grain that may be bought or exported under the licence and as to how the grain bought or exported under the licence may be described. This will enable the State's reputation as a reliable exporter of high-quality grain to be protected from the damage that could be caused by the export of poor quality or incorrectly described grain.⁸⁴

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.⁸⁵

4.3 Analysis

A number of issues were raised during the consultation process pertaining to the effectiveness of the GLA system. These issues include:

- market competition;
- grain prices;
- the purpose and interpretation of the Act, including with regards to grain pools and cash trading;
- the appropriateness of protecting the State's reputation;
- transparency of decisions; and
- the variation between licensed volumes granted and licensed volumes exported.

4.3.1 Market Competition

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;

⁸⁴ Logan F.M. 2002, op. cit.

⁸⁵ GLA Operating Procedures 2005/06.

- bags or containers to the export market;
- value added form to the export market; and/or
- any form to the domestic market.

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.⁸⁶

The submissions noted that the GLA system has delivered a number of benefits to the WA grain industry, including increased diversity in the number of grain traders, together with a greater range of contract types and a more competitive grain market.

The granting of licences by the GLA has resulted in traders exporting barley and canola, leading to a significantly more competitive grain accumulation market, most notably in the case of feed barley. (DTF, p4)

GPPL is happy to acknowledge that the introduction of competition has been of benefit to growers by introducing choice and additional marketing options for their grain. The option for growers is a simple one – they can now sell their grain to the acquirer that offers them the greatest value.

The advent of this competition has forced GPPL to bring in enhancements and innovations to its service offerings to growers to ensure that its pools remain attractive to growers. These innovations have been extremely well-received by growers. (GPPL, p21)

The GLA's measured and cautious approach to market experimentation using SELs is welcomed by WAFarmers and should be continued. (WAFarmers, p19)

The Glencore Grain submission highlighted the primary benefit as greater pricing options and transparency.

Price Transparency: [m]ost growers are now extremely comfortable with multiple buyers competing for cash for their crops. This not only has implications for cash pricing on a daily basis, but also puts the main licence holder's estimated pool return into context.

Pool Transparency: against the backdrop of daily cash prices being offered by other marketers, the Grainpool now advises growers of EPR's almost weekly during the marketing months.

Greater product pricing: the introduction of a wider variety of price products. (Glencore Grain, p5)

4.3.2 Grain Prices

The GLA has previously 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.

[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.⁸⁷

⁸⁶ Advance Trading 2006, *Grain Market Assessment in Western Australia*.

⁸⁷ GLA 2005, op. cit.

A number of submissions noted that the competition introduced by the GLA has resulted in an increase in the prices received by growers.

The granting of licences by the GLA has resulted in traders exporting barley and canola, leading to a significantly more competitive grain accumulation market, most notably in the case of feed barley. Not surprisingly, higher grain prices were observed following the GLA meetings when licences were granted as the private traders took advantage of their licences to accumulate grain for export. (DTF, p4)

Given the increase in cash prices that Western Australian growers have received for their barley in comparison to South Australian growers, it is also clear to the GLA that partial deregulation has benefited Western Australian growers. (GLA, p11)

With the introduction of Special Licences in Western Australia in December 2003, we saw substantial increases in Kwinana relative to Adelaide and Geelong. In fact in the first harvest with a GLA, Kwinana was at a premium to Geelong, which it should be due to port cost differentials and freight advantage. Not only did we see Kwinana zone growers benefit with competition, Albany and Esperance growers also were getting the same price as Fremantle when these zones previously traded at a discount under Grainpool's monopoly. (Glencore Grain, p9)

4.3.3 Purpose and Interpretation of the Act

A number of issues were raised in submissions pertaining to the purpose and interpretation of the *Act*. The GLA consider that the while the *Act* is intended to maximise the benefit of market competition, this should not happen at the expense of the benefits of the single desk. One issue however, as viewed by the GLA, is that benefits of the single desk are not clearly defined in the *Act*.

The GLA believes that the assessment criteria does adequately reflect the purpose of the *Act* but the purpose is not only to maximize the benefit of market competition as stated in the ERA issues paper but also to protect the benefits of a single desk. One issue is that the benefits of a single desk are debatable and not clearly defined in the *Act*. (GLA, p14)

Historically single desk operators operated harvest pools (open all season) as the primary method for acquiring grain. The use of harvest pools (by all major grain traders) has significantly declined in the past five years, reflecting an increasingly dynamic export grain market.

As an example of current pool operations, GPPL offered a Contract Barley Pool in September 2007 with an estimated \$15 per tonne premium over the No.1 Barley Pool. This contract pool was open to past customers of GPPL/AgraCorp, with allocated volumes of grain based on previous deliveries to GPPL/AgraCorp.

The GLA previously noted that:

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.⁸⁸

Regarding harvest pools, while the *Act* refers to the single desk, there is no specific requirement for the Main Export Licence Holder to operate traditional harvest pools.

⁸⁸ GLA 2006, op. cit.

Submissions noted a possible contradiction between the intention of the *Act* and the shift to short-term contract pools.

The GLA had initially interpreted single desk or main export licence holder to mean the operation of the traditional pooling system.

...It appears that GPPL are moving away from providing traditional pooling options that growers were accustomed to and that the GLA assumed the *Act* was intended to protect. The traditional harvest pools which were open to everyone for the whole season have become less common as premium and contract pools were introduced. Contract pools are short-term fixed tonnage pools, not necessarily open to everyone and can close at any time without prior notice, in order to protect the price for growers who committed to the pool early in the season. This type of pooling seems to be in contradiction with the original propositions put forward for the benefit of pooling and a single desk approach which was to hold grain in pools for up to 18 months, until the opportunity arose to exert market power and extract a premium. The benefit of this was that over the life of the pool, the average price and returns for growers would be higher. (GLA, p12)

Pools themselves have evolved, with Grain Pool now actively marketing contract pools. Producers can contract into these pools, but they can be shut at any time. 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 next logical step. (Kim Halbert, p3)

The GLA submission also noted:

[t]he review of the *Act* should investigate whether the purpose of the Grain Marketing Act 2002 or any further legislation that might be introduced is to protect the main export licence (GPPL) irregardless [sic] of whether it markets grain using pools or whether it is to protect pools (a definition of a pool would be needed) and the subsequent market power and premiums that single desk holders claim that they can extract from running these pools. (GLA, p13)

Under Section 28 of the *Act*, the MEL holder has an obligation to buy all prescribed grain (providing the grain complies with standards set by the GPPL) that a person offers it on terms with which it buys similar grain in similar circumstances from other persons.

The WAFarmers submission notes:

The certainty provided by Section 28 obligations, combined with reliable Estimated Pool Returns are two important aspects of managing risks and price volatility. In turn a level of certainty must also apply for the GPPL as the MEL holder, if GPPL is to be in a position to maximise grower returns.

However the decision by GPPL to discriminate in favour of select growers to the detriment of others has been questioned. GPPL have given preference to growers based on historical deliveries. This discriminates against first-time growers and those who are unable to deliver due to crop failure or drought. (WAFarmers, p31)

Further, the submission noted in respect to fixed tonnage pools:

Fixed tonnage pools are questionable on a number of counts:

- a. Tonnage limit contract pools deny growers their right to have GPPL buy all the grain they offer for sale to GPPL on the same terms that it (GPPL as the MEL holder) buys grain in similar circumstances from other persons.
- b. Tonnage limit pools potentially transfer value away from a large number of growers in favour of a concentrated few.

- c. Tonnage limit pools discriminate against growers who do not speculate on production risk. (WAFarmers, p32)

In light of the above, WAFarmers considers that an important outcome of this inquiry needs to be an independent interpretation of Section 28 of the *Act*, together with a testing of the current practices of the MEL holder against that interpretation.

A review of Hansard provided no further information on the intention of Section 28.

The relationship between GPPL and AgraCorp (CBH's cash trading subsidiary) was also raised in submissions.

It has taken from the proclamation of the Act until 2007 to clarify the position of Agracorp, its relationship with Grain Pool, and how it functions...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. (Kim Halbert, p3)

Given the main export licence incorporates GPPL's cash trading entity, Agracorp (which more grain is being sold to), and Agracorp is not required to apply for an SEL because all grain is lawfully owned by GPPL, it is difficult for the GLA to ascertain to what extent it can protect pool returns to growers. One might conclude that the GLA is essentially protecting one cash trader against all others. (GLA, p12)

4.3.4 Appropriateness of Protecting the State's Reputation

The National Competition Council (**NCC**) noted in 2004 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.⁸⁹

4.3.5 Transparency of Decisions

It has also been noted that interpretation of the guidelines and application of the discretionary powers has led to decisions that are not immediately transparent.⁹⁰ The 2004 NCC review recommended that the guidelines be amended to clearly specify the criteria used by the GLA to assess applications.⁹¹

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

⁸⁹ NCC 2004, *Assessment of governments' progress in implementing the National Competition Policy and Related Reforms: 2004*.

⁹⁰ 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.

⁹¹ NCC 2005, *op. cit.*

the Ministerial Guidelines provide sufficient flexibility and discretion to implement the intent of the Act.⁹²

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.

The operating procedures produced by the GLA advise applicants in advance of the factors that are to be considered as part of the application process and the weighting to be given to each criteria. However, given the commercially sensitive nature of the information provided by the GPPL and the SEL applicants in relation to each licence application, and the nature of the licensing process (whereby analysis must be conducted after the application is received), applicants are unable to determine the likelihood of their application being successful.

The issue of transparency was raised in the GLA submission:

Some parties might argue that to improve the transparency of a licensing process, applicants should be able to determine their chances of a successful application. The act is highly subject to interpretation and with new and different factors being taken into account as the grain marketing environment changes over time, the system may be considered as somewhat subjective. (GLA, p14)

4.3.6 Variation Between Licence Volumes Granted and Licence Volumes Exported

There is a significant difference between the volume of export grain granted under SEL's and the actual export tonnage shipped (see Figure 4.3). 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 26 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 600,000 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 and there have been no shipments of lupins.

Grain accumulated but then not exported by SEL holders can be traded by other methods (e.g. on-sold to other SEL holders or into the domestic market).⁹³ 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.

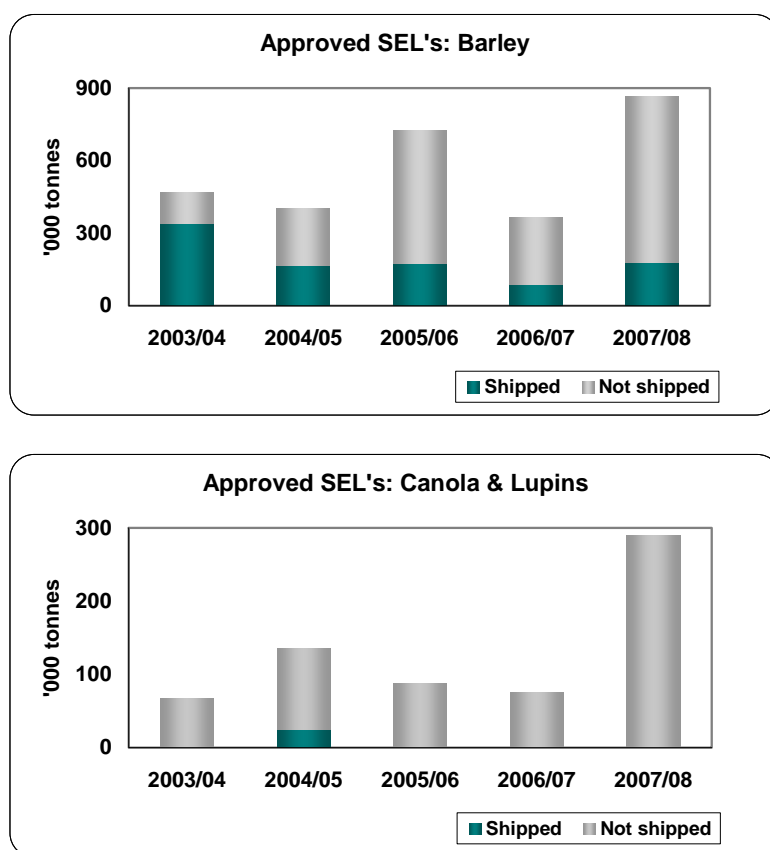
The GPPL notes in its submission that:

GPPL's overall ongoing performance is demonstrated by the difference in the tonnage of special export licences granted and the actual tonnage shipped.

Since 2004/05, only 30% of volume granted has been shipped, suggesting very strongly that despite special export licence holders obtaining approval to ship, GPPL was still able to provide equivalent or superior value to growers and retain market share accordingly.

⁹² GLA 2005, op. cit.

⁹³ GLA 2006, op. cit.

Figure 4-3 Special Export Licences – Volumes Shipped

However, industry participants have noted a number of factors that may result in SEL holders not shipping the granted tonnage.

- The time taken to obtain a licence from GLA and the restrictive licence conditions;
- Licence terms of more than one year were required to facilitate exports by grain traders. From 2006/07, the GLA has issued multiple year SEL's; and
- CBH charges and fees.

The submissions noted that:

While marketers can do their very best to predict where their purchased grain will be destined – factors such as drought, changes in government policies, variations in buyers needs and continuing dietary changes in nearby developing markets means it is extremely difficult to always be accurate. It is for this reason that some Special Export Licence Holders do not execute on their licences. (Glencore Grain, p4)

[a]s each licence currently issued by the GLA is receiver specific, the grain exporter would currently have to apply for a new licence should a shipment be cancelled and the exporter wish to resell to another buyer. The current GLA licensing system restricts grain marketers from implementing a contingency plan should their situation change. (AGEA, p3)

[a]s per the GLA report for the 2006/07 season, that SEL holders have cited in addition to poor seasonal conditionals for that season, the following on-going impediments to shipping under their licences:

- CBH Storage and handling fees and charges (i.e. export accumulation fees);

- Lack of options for stock swaps (GPPL own the majority of the grain in the CBH system but don't have an economic imperative to swap it);
- Cost of stock swaps (only marginally cheaper than the export accumulation fee) (GLA, p14)

4.4 Conclusions

The GLA has enabled a smooth transition in marketing arrangements from the 'single desk' to multiple exporters of prescribed WA grains. The introduction of SEL's has increased market competition and provided growers with greater options, including access to higher priced cash contracts.

Regarding the assessment of SEL's, the Authority accepts that grain quality and the ability to fulfill agreements/volumes are key factors impacting on the reputation of the State and /or grain industry. However, the Authority notes that allowing multiple sellers (with financial capacity) to trade WA grain into export destinations or associated price competition (including price cutting) is unlikely to undermine the State's reputation.

Findings

- 3) The introduction of the GLA has been effective at increasing grain market competition, which has provided a greater range of selling options for growers of prescribed grains.
- 4) The more frequent reason given by the GLA for declining SEL applications is that of protecting the State's reputation. The Authority accepts that grain quality and the ability to fulfill contractual agreements are key factors impacting on the reputation of the Western Australian grain industry. However, the Authority notes that allowing multiple sellers (with financial capacity) to trade WA grain into export destinations or associated price competition (including price cutting) is unlikely to undermine the State's reputation.

5 Do Current Restrictions on Barley, Canola and Lupin Marketing Have a Net Public Benefit?

A key factor identified in the Terms of Reference that could impact on the effectiveness of grain marketing is the current restrictions on the exports of barley, canola and lupins. The Authority is required to undertake an analysis of the net public benefit of these restrictions.

5.1 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 or damage the State's reputation.⁹⁴

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 and Development; and
- competing effectively in the international grain market.

A Productivity Commission report on the assessment of the economic arguments for a single desk noted that in essence, the single desk aggregates the output of thousands of producers and markets it as a broadly homogeneous commodity, with growers receiving an average (pool) price. This process of aggregation is the source of both the potential benefits and costs of single-desk marketing.⁹⁵

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.⁹⁶ In addition, price premiums are often due to factors other 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;⁹⁷
- competition will deliver more efficient service levels and more responsive industry innovations;

⁹⁴ GLA 2006, op. cit.

⁹⁵ Productivity Commission 2000, *Single-Desk Marketing: Assessing the Economic Arguments*, Staff Research Paper

⁹⁶ GrainCorp 2007, *A Contestable Export Wheat Market Maximising Returns to Growers*, Submission to the Wheat Export Marketing Consultation Committee, 23 February 2007.

⁹⁷ Sims F. 2000, *Perspectives on Single-Desk Marketing*, Presentation to the Grains Council of Australia, Brisbane, April 5 2000.

- 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 per cent of their income, respectively, from government support; compared to 11 per cent for Australian wheat farmers.⁹⁸ Over the period 2000-04 this equated to annual support of around A\$110 per tonne for US wheat farmers compared to A\$8 per tonne for Australian wheat farmers;⁹⁹
- 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.

In considering this issue, 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.¹⁰⁰

5.2 Review of 'Single Desk' Studies

In addition to the three studies on the impact of SEL's on the price of prescribed grain in WA, referred to in Chapter 4, 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.¹⁰¹

⁹⁸ 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.

⁹⁹ CWB 2006, Annual Report 2005-06.

¹⁰⁰ See for example, Storey, op. cit., Kronos Corporate 2002, *A Review Of Structural Issues in the Australian Grain Market*.

¹⁰¹ 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. McCorrison 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.

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.¹⁰² 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 international durum wheat, which is a special case of a single trader controlling 50 per cent of the market for a fairly homogenous product.¹⁰³

A study was undertaken of the global malting barley market and the role of the Australian Barley Board 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 the Australian Barley Board nor the CWB (major exporters) had market leadership in the differentiated global malting barley market or were optimally shifting income from other exporting countries.¹⁰⁴

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.¹⁰⁵

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.¹⁰⁶

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.¹⁰⁷

5.3 Analysis

Several submissions made comment on the ability of a single desk to achieve a price premium as a result of single desk marketing power. There was a diverse range of views on the ability of a single desk to extract a price premium as a result of market power.

There is little evidence to support the view that GPPL is able to achieve higher prices on export markets as a result of market power the 'single desk' gave it. (DTF, p6)

¹⁰² 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.

¹⁰³ 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.

¹⁰⁴ 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.

¹⁰⁵ 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*.

¹⁰⁶ Joint Industry Submission Group 2000, *Australian Wheat: It's Time for Choice*.

¹⁰⁷ 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.

In the main most economic studies have concluded single seller/singled desk or orderly marketing systems have delivered modest dollar gains for the grain grower. (WAFarmers, p24)

WAFarmers commented on the benefits derived from economies of scale:

[the] Main Export Licence holder value adds for the benefit of every grower via services contracts and integrated value chain management based on economies of scale. (WAFarmers p8)

The Authority notes that studies have found that the objectives of single desk marketing (including price/quality premiums, economies of scale in marketing and year-round quality supply) can also be achieved by more competitive marketing structures and that activities such as research and development and quality control can be delivered by more targeted mechanisms.¹⁰⁸

5.3.1 Restrictions on Barley Marketing

Three independent assessments of price premiums due to market power in the barley market were conducted by Farm Horizons (2004), Storey Marketing Services (2005) and Advanced Trading Australia (2006). The three assessments indicated that there is the potential for price premiums for Western Australian feed and malting barley into Japan. However, the studies noted that price premiums for feed barley had declined since the introduction of the SBS system and that it was difficult to quantify whether price premiums for barley are due to market power or reflect other factors such as seasonal premiums or grain quality.

The GLA also commissioned independent research on feed barley exports into Saudi Arabia and malting barley into China. The report found that there is little evidence of single desk power in barley exports to Saudi Arabia. The market analysis for China found that Australia is a price taker (with the returns for malting barley determined by the market). While there is a short term opportunity for price control due to seasonal supply, this opportunity would be open to all sellers because of market transparency.¹⁰⁹

In response to these reports, the GLA submission notes:

[t]he three assessments on price premiums due to market power indicated there is a potential for price premiums for Western Australian feed and malting barley into Japan. (GLA, p7)

The GLA is of the view that for barley, there is the potential for price premiums due to market power in Japan, but such premiums are much less likely to be extracted from Saudi Arabian and Chinese markets. (GLA, p11)

The Department of Treasury and Finance submission also commented on the ability to extract price premiums for barley due to market power.

Western Australia's total export of barley is only around 10% (in 2005-06 it was 11 %) of world trade and by this measure alone would seem unlikely to have market power.

There would seem to be little opportunity to exercise market power, although GPPL may have had on occasions very brief opportunities when competitors are in short supply. (DTF, p3)

¹⁰⁸ See for example, Productivity Commission 2000, *Single-desk Marketing: Assessing the Economic Arguments*, Productivity Commission Staff Research Paper, AusInfo, Canberra.

¹⁰⁹ GLA, 2008

The one exception was that two of the reviews (one by Farm Horizons in 2004 and the other by Story Marketing in 2005) concluded that GPPL exercised market power for malt barley on the Japanese market. While GPPL may achieve a premium on this market, it is not clear that this is a result of GPPL's market power or whether it is a particular relationship in the Japanese market. (DTF, p4)

5.3.2 Restrictions on Canola Marketing

Since inception, the GLA has commissioned a number of reports by independent consultants to investigate price premiums for canola. For the export of canola into Pakistan or Japan, the reports concluded that the GPPL's single desk powers provided little or no scope to achieve a premium from the exercise of market power. It was also noted that benefits such as ensuring quality, transport savings and year-round supply can be achieved without a single desk arrangement.¹¹⁰

The GLA submission notes:

In addition to these two reports, there were also independent assessments of price premiums due to market power conducted by Advance Trading in 2006, Storey marketing Services in 2005 and Farm Horizons in 2004. These all concluded that due to the highly competitive nature of the international grain market and GPPL's relatively small market share in most key canola markets, it was unlikely GPPL would be able to exert market power.

In view of the above findings, the GLA has little evidence of price premiums due to market power. With the existence of a transparent and liquid forward market for growers to utilise there appears to be little justification to support single desk marketing for canola. (GLA, p7)

Several submissions also commented on the status of canola as a prescribed grain.

In addition, substitute products are available in some of the overseas markets for these prescribed grains, further limiting the capacity to achieve a price premium.

Canola produces canola oil, which is substitutable by other oils, such as sunflower, soybean and palm oils. (DTF, p4)

Previous studies have shown that Canola should never have been regulated prior to the 2002 Act. (Kim Halbert, p5)

A particularly egregious example would be the retention of claims of monopoly premiums for canola, when canola was only under regulation in one state. It is not credible for the Grain Pool to argue that it achieves premiums in a particular market, when it is competing with Australian grain freely exported from other Eastern States and South Australia. (PGA, p5)

5.3.3 Restrictions on Lupin Marketing

There appears to be little evidence to support the continuance of lupins as a prescribed grain given the majority of lupins produced in Western Australia are used on farm as animal feed, sold domestically or shipped in containers.¹¹¹ Further, Western Australia's production of lupins has been declining in recent years from 783 kt in 2000-2001 to 125 kt in 2006-07.¹¹² Lupins are also highly substitutable with other high protein feed sources.

The DTF submission notes:

¹¹⁰ GLA, 2008

¹¹¹ GLA 2008

¹¹² http://www.abareconomics.com/interactive/acs_dec07/excel/Pulses.xls

In the case of lupins, they are exported principally as an ingredient for livestock feed rations. This is a very competitive market in which other grains, such as soybeans, can easily replace lupins unless the price is right. That is, price premiums are extremely unlikely. (DTF, p3)

Other submissions noted:

Lupins have been a particular victim of controlled marketing and their demise as a crop in WA can largely 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. (Kim Halbert, p5)

With decreasing exportable surpluses from Western Australia and the fact that lupins can be easily substitutable for other high protein feed it would seem, at present, unnecessary to retain controls on the bulk export of lupins. If production were to return to past levels of up to one million tonnes per annum then opportunities would arise for industry to establish supply chains into the niche export market. (GLA, p4)

5.4 Conclusions

The majority of studies indicate that single desk exporters cannot exert significant market power on international grain markets or derive associated price premiums.

On the available evidence there is no indication that single desk marketing results in price premiums for Western Australian canola or lupins. Regarding barley, there is a potential for price premiums for Western Australian malting barley into Japan. However, the studies indicate that it is difficult to quantify whether price premiums for barley are due to market power or reflect other factors such as seasonal premiums or grain quality.

In addition, the Authority notes that studies have found that single desk objectives including price/quality premiums, economies of scale in marketing and year-round quality supply can be achieved in a competitive market.

The Authority considers that retaining the current restrictions on the export of barley, canola or lupins is unlikely to deliver a net public benefit, with the removal of the current licensing requirements likely to lead to greater competition in the WA grain accumulation market.

Findings

- 5) On the available evidence:
 - there is no indication that single desk marketing results in price premiums for barley, canola or lupins; and
 - there does not appear to be a net public benefit in retaining restrictions on the bulk export of barley, canola or lupins.

6 Grain Pools and Cash Acquisitions

Under the Terms of Reference, the Authority is to consider and report on:

an assessment of the operation of pools and cash acquisitions of prescribed grains by the main export licence holder (Grain Pool Pty Ltd);

6.1 Background

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) and was open to all growers.

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 pools to shorter term pools. GPPL now offers a range of different pools including premium pools, harvest pools and post-harvest pools. While a pool may be called a 'harvest pool', it may not be a harvest pool in the traditional sense (that is, open all harvest).

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).

A recent survey of canola growers showed that the most commonly used marketing tools were forward or deferred pricing contracts (46.9 per cent), deferred delivery contracts (26.3 per cent) or cash sales at the time of harvest (25.5 per cent).¹¹³

6.2 WA Grain Pools

Reflecting that average prices for cash contracts are typically higher than pool prices¹¹⁴ and to make their grain pools more competitive with the cash market, GPPL is now offering a wider range of pools.¹¹⁵ 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, Glencore, GrainCorp and Cargill) are now active in the WA market offering pools and cash contracts for barley, canola and lupins.

¹¹³ INSIGHTRIX Research P/L 2007, Survey of Oilseed Growers and Advisors – Canola Results, Research conducted on behalf of the Grains Research and Development Corporation and Australian Oilseeds Federation.

¹¹⁴ RSM Bird Cameron 2005, op. cit.

¹¹⁵ CBH 2006, 'Grain Pool announces changes to barley pools for 2006-07', Media Release, September 11 2006.

6.3 Analysis

Regarding an assessment of the operation of pools and cash acquisitions, the GLA has previously noted that:

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.

Higher 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.¹¹⁶

There has been considerable change in the operation of pools since the enactment of the *Act*. The introduction of contract pools has also changed risk management strategies. Farmers carry production risk if they choose to contract into an early season pool or bear no production risk if they choose to contract into a traditional pool after harvest.

The GPPL noted the introduction of contract pools had improved pricing signals.

In order to retain market share since the introduction of the GLA, GPPL has consistently introduced innovations to the traditional means of pooling grain. The introduction of contract pools have provided growers with alternative pricing options and enabled clear market signals to be communicated to grain growers. To date, contract pools have typically returned a premium to those growers who chose to commit their production earlier than they would to the traditional pool. These contract pools enable growers to take advantage of GPPL being able to commit to international sales early in the harvest year ensuring they are then subject to decreased storage costs as a result of their immediate shipment both during and at the completion of harvest. (GPPL, p12)

Notwithstanding the move away from traditional harvest pools to contract and cash trading, pools continue to operate in deregulated grain markets as they allow diversified risk management.

The risks associated with purchasing large volumes of grain for cash are significant, particularly for barley and lupins where no futures market exists. The risk of large movements in export commodity prices will limit the volumes traders are prepared to purchase for cash during a short harvest period. In order to manage these risks GPPL will ensure that pools remain viable marketing options for growers. (GPPL, p12)

The AGEA submission notes:

[t]he presence of the GLA over recent years, has given growers the opportunity to be able to decide whether the risk and reward tradeoff in a pool suits them better than a fixed contract. (AGEA, p4)

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.¹¹⁷

¹¹⁶ GLA 2006, op. cit.

¹¹⁷ GLA 2006, op. cit.

GPPL has provided information on the performance of the barley, canola and lupin pools relative to the cash market.

In 2005/06 the barley pool achieved a return to growers of more than \$177 per tonne (basis feed barley). This is an outstanding performance considering the cash prices on offer during the season varied from \$159 per tonne to \$168 per tonne. The 2005/06 canola pool achieved a return of \$338 whilst cash prices varied from \$309 to \$376 and the 2005/06 lupin pool achieved a return of \$187 whilst cash prices varied from \$164 to \$188. (GPPL, p13)

The Glencore submission noted that the introduction of the GLA system had improved the transparency of pool prices, while the PGA noted the improved GPPL pool and cash performance.

Competitive pressures have encouraged better performance and lower costs from Grain Pool (both in terms of pool and cash markets). (PGA p4)

Industry members (in conjunction with NACMA) are currently developing a new code of conduct which will provide net transparent return figures (posted at silos and on the web) for all transactions. This will improve the clarity in posted prices and assist growers in making informed market decisions. The Wheat Industry Expert Group (**IEG**) notes that:

[u]nder the new marketing arrangements there will be more competition amongst grain marketers to obtain wheat that meets the requirements of customers. There will be an additional commercial imperative for grain accumulators to offer price incentives based on quality.¹¹⁸

6.4 Conclusions

Reflecting a more dynamic export market and changes in growers preferences, cash acquisitions have become an increasingly important component of GPPL's buying strategy over the past five years.

Pools (including short-term contract pools) remain a valuable component of growers' marketing strategies in both regulated and deregulated grain markets. The Authority notes that it is difficult to directly compare the GPPL pool performance to that in other states. However, there is no evidence to suggest that there has been a deterioration in GPPL pool operation/performance since the introduction of the *Act*. It is likely that the entry of multiple export traders and the associated competition for pool/cash trades has improved GPPL's operation of pools and cash acquisitions for prescribed grains.

¹¹⁸ Wheat Industry Expert Group, *The Provision and Transition of Industry Development Functions for the Australian Wheat Industry*, Discussion Paper, March 2008.

Findings

- 6) Since the *Act* was introduced, there has been a shift from traditional harvest pools to contract pools and cash trading as the dominant method for buying export grain.
- 7) It is likely that the entry of multiple export traders and the associated competition for pool/cash trades has improved GPPL's operation of pools and cash acquisitions for prescribed grains.

7 Licensing Requirements, Fees and Charges

Under the Terms of Reference, the Authority is to consider and report on:

licensing requirements governing the accumulation and trade of prescribed grains for export.

fees and charges applying to licensing.

7.1 Licensing Requirements

Section 30 of the *Act* prescribes the details to be specified in an application process. An application for a special export licence is to specify:

- the prescribed grain for which the licence is sought;
- the market for which the licence is sought;
- the term for which the licence is sought;
- the season of production for the prescribed grain for which the licence is sought; and
- the quantity of prescribed grain for which the licence is sought.

In addition to the details prescribed in the legislation, further information is provided in the SEL application form. 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.

The time taken by the GLA to assess the application is prescribed in section 35 of the *Act*. The GLA recommends that an application be submitted 10 days prior to the GLA board meeting to ensure timely consideration of the application. After submission of an application by the grain trader, the GLA may request further information in order to assess the application. The applicant has 30 days after receipt of the request to supply the information. The GLA then has a further 30 days to reach a decision. Following the decisions, the GLA has 14 days to notify the applicant of the decision.

Should the GLA decline a licence, the applicant may appeal under section 40 of the *Act*. The appellant has 30 days to appeal the decision to the Minister. The notice of appeal is to be in writing, setting out the grounds of appeal and any representations that the appellant wishes to make in support of the appeal. The Minister then has, as far as

practical, 30 days to reach a decision on the appeal. The appellant must then be notified within seven days of the outcome of the appeal.

The timeframes imposed by the legislation may result in an approval for the application taking in excess of four months, should the application be subject to the appeal process.

7.2 GLA Fees and Charges

The GLA collects three types of fees under the *Act*:

MEL holder fee: \$400,000 per annum.

SEL application fee: \$5,000 (20,000 tonnes or less) to \$20,000 (more than 50,000 tonnes).

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.¹¹⁹

The SEL application fees are based on the total number of tonnes for all seasons applied for in one application. For example an application of 50,000 tonnes per annum over 3 years will attract a fee of \$20,000 as the total number of tonnes is 150,000.

A \$500 annual licence fee is payable upon grant of a licence and on the anniversary of the date the licence was granted each year the licence remains in effect. Matters specified on a licence will include the name of the licence holder, type of prescribed grain, the season and quantity, the market, the customer, the licence term and the quality of grain to be shipped. The licence will also be subject to the following conditions:

- consent for GLA to monitor quality by taking grain samples from every export shipment (this operation will not incur additional costs for the SEL holder);
- grain volume level does not exceed 5% variation;
- within 21 days of ship departure, forward to the GLA the completed feedback form and a copy of the bill of lading;
- payment of crop improvement royalties (where appropriate) and levies; and
- any other conditions imposed by the GLA specific to a particular application.

The GLA recently introduced a grain testing regime after concerns were raised that lower quality grain was being exported. The testing allows the GLA to monitor exporter performance and to protect the State's reputation as a grain exporter.

7.3 Analysis

The GLA note that the current cost structure is not reflective of the costs involved in assessing an application for SEL's, nor the cost involved in issuing an annual licence.

Most applications received by the GLA are for 35,000, 50,000 or 60,000 tonnes of grain which is one bulk shipment depending on the size of the vessel. The sliding scale structure does not relate to shipment sizes nor to the cost of assessing an application, which is the same, regardless of the tonnes applied for.

¹¹⁹ GLA 2006, op. cit.

As long as the fee amount still serves to ensure that only marketers who are financially resourced to pay growers and are committed to export will actually apply for licences, it would not seem necessary to retain a sliding scale structure for application fees. One flat fee in the range of \$15,000 to \$20,000 might be more appropriate and would (based on previous operating expenditure) cover the cost of the SEL application process.

The \$500 annual licence fee does not cover the cost involved in actually issuing a licence, amending a licence, managing the feedback process, ensuring licence conditions are met and coordinating the grain quality testing regime. (GLA, p15)

Regarding current fees and charges, the submission from Kim Halbert notes:

A very apparent criticism of the GLA by the SELs is the cost 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. (Kim Halbert, p4)

The GLA considers that a new cost reflective regime should be introduced whereby a flat fee of between \$15,000 to \$20,000 would be charged for SEL applications and \$2,500 for the annual licence fee, with the annual fee to apply for one shipment of grain per production season.

A number of submissions commented on the impost of the current system when compared to South Australia. In South Australia, ESCOSA grant export licences for barley where the licence application fees are \$2,500, with an annual barley exporting licence fee set at \$12,500.

While South Australian grains often need to be freighted longer distances to export markets, an exporter does not need to go through the longwinded and costly process of obtaining an export licence such as those issues by the GLA. (AGEA, p3)

There is also a significant direct cost to running the GLA. Marketers can now look to South Australia as a significant alternative to Western Australian barley and not pay any GLA export licence fee. (Glencore Grain, p4)

The cost of the GLA is viewed as being modest and well within reason and therefore not a material issue in the process. (WAFarmers, p33)

Whilst the GLA seems to have developed a satisfactory system for the apportionment of costs between the Main Licence Holder and the SELs, in aggregate these are still costs that have to be funded at the expense of growers grain returns.

These costs can no longer be regarded as trivial, now that the cost of doing business in South Australia is relatively low. (PGA, p7)

7.3.1 Impact of Licensing Requirements

Grain traders continue to note their concerns regarding licence conditions and the timeframe for the granting (or amendment) of SEL's.

Of serious concern is the time delay experienced by licence applicants when making an application or an export licence. (AGEA, p2)

Restricted as exporters, grain marketers have to apply for a licence to each destination market, to which they may intend to export. This limits an exporters capacity to pay the full world market export price as they may be unable to obtain a licence for the highest paying market, or they may face the cost of applying for multiple licences to many markets in order to be able to access the best prices. (AGEA, p4)

AWB's view is that the system would be improved if access to permits for the export of prescribed grains was made easier for applicants. (AWB, p2)

It is our view that the GLA has operated as effectively as government can administer a free market. However the system is far from ideal and our submission would claim the cost, and administration, time and effort required is now unnecessary. (Glencore Grain, p5)

Applying for a licence early in the year requires the SEL to nominate customers on licences, this is both restrictive and inflexible since better pricing premiums may present themselves later in the year from other customers. (Glencore Grain, p9)

By necessity decision making in a fluid market, such as grain, where trades can be made and communicated at the speed of light, are not compatible with the time taken to make application to, and await decisions from, the GLA. (PGA, p7)

7.4 Conclusions

Grain traders continue to note their concerns regarding the timeframe for the granting (or amendment) of SEL's. Applications for licences are typically prepared months before the grain is exported, with SEL applicants required to forecast future grain prices and volumes required. Should the SEL holder seek to amend the SEL, it must reapply to the GLA to approve the amendments, a process which make take a number of weeks.

Reflecting the dynamic nature of grain trading, commercial trading decisions are often required in a short timeframe (days rather than weeks). Given the *Act* requires an assessment process for SEL's, the issuing of licences cannot be undertaken in a timeframe that always meets the commercial requirements of grain traders.

In recent years, there has been increasing volatility in world grain prices. A number of submissions expressed concern that the current arrangements for SEL holders are restrictive and inflexible and do not allow for SEL's to take advantage of higher prices that may arise later in the year from different customers to those nominated on the SEL. On the available evidence, the Authority finds that SEL requirements impose restrictions on the ability of grain marketers to compete in the grain export market.

Findings

- 8) Further analysis would be required to assess whether GLA fees and charges are reflective of the costs involved in evaluating licence applications.
- 9) Regarding licensing requirements, the Authority finds that these requirements adversely impact on the ability of the SEL holder to compete in the prescribed grain export market.

8 Other Matters of Relevance to the Operation and Effectiveness of the Act

Other matters that were raised by stakeholders as relevant to this inquiry were the matters of market liquidity, access to infrastructure and industry investment.

8.1.1 Market Liquidity

The importance of liquidity in the market was raised in submissions, primarily by the grain traders. The submissions noted that the lack of liquidity in the grain market limits a trader's ability to liquidate stock to other traders in the market place should their position change, or their ability to enter into stock swaps to move grain between locations. Stock swaps occur whereby grain traders swap grain with other traders between locations (at silo or at port) in order to assemble a cargo of grain for export. The cost of the stock swap is agreed between traders, with the cost of the swap being determined by the location differential of the grain. Grain traders will enter into a swap when it is commercially viable to do so.

The risk inherent in trading in a market with little or no liquidity was raised by Glencore Grain Pty Limited.

The risk of operating in a market which is highly illiquid may be difficult for someone of a non-grain marketing background to understand. However this is not just a perceived risk, it is real and costs serious money if mismanaged.

For example: we start buying feed barley in Geraldton, and decide to deliver the same prices to Geraldton growers as in other zones. Since this is an area where production is more volatile than in other areas – at best we can only accumulate some 25,000mts. This tonnage is not enough to execute on a vessel to normal bulk barley buying markets. If there were multiple players in the market, we could sell this tonnage at the prevailing market price; effectively liquidating our position – but still having delivered equivalent prices to Geraldton growers as we did in other zones. However, there is no liquidity in Geraldton. In practice, what we are forced to do is turn to the only other buyer of barley in the zone – Grainpool – and “ask” them to purchase grain or allow us to indeed buy their grain to make up a bulk vessel (50,000 mt & above). However, in practice this is done at prices significantly below or above the market price and our business incurs significant losses from this exercise. (Glencore Grain, p7)

The lack of liquidity in the Geraldton zone may impact on the prices received by growers in that area. The Glencore submission notes:

No more evident is the benefit of alternative pricing and transparency more clearer than when we look at the one zone in Western Australia where (due to liquidity reasons) SEL holders do not operate – and the main licence holder is still the exclusive buyer in that zone.

Here when we compare the Agracorp (Grainpool's cash marketing arm) Kwinana cash price vs the Geraldton cash price the cost to Geraldton growers is alarming. The selected days were days where significant volumes of grain were being marketed (hence price determination should be sharpest).

AGRACORP	Nov 15 th			Nov 26 th			Dec 05 th		
	Malt	Feed	Canola	Malt	Feed	Canola	Malt	Feed	Canola
Geraldton	\$340.0	\$270.0	\$517.0	\$340.0	\$280.0	\$527.5	\$350.0	\$280.0	\$528.0
Kwinana	\$365.0	\$300.0	\$550.0	\$371.0	\$310.0	\$575.0	\$385.0	\$325.0	\$565.0
Difference	-\$25.0	-\$30.0	-\$33.0	-\$31.0	-\$30.0	-\$47.5	-\$35.0	-\$45.0	-\$37.0

When displayed like this, we can place a dollar cost of having no liquidity in the Geraldton zone; this cost being worn by growers. this discount should be put in the context of other zones where there was largely equal process between Kwinana/Albany and Esperance for malt and feed and canola. (Glenore Grain, p6)

8.1.2 Infrastructure Access

Access to infrastructure is a key factor in ensuring the efficient operation of the grain exporting industry.

In Western Australia, CBH (as the owner/operator of bulk handling facilities) negotiates commercial arrangements with grain traders wishing to access those facilities. Access to port facilities in WA is not regulated.

The GPPL submission noted that storage and handling of grain in WA is open to competition and the CBH access policies do not favour GPPL at the expense of other acquirers.

Functional and legal separation of GPPL and the CBH storage and handling business (CBH Grain Operations) is in place in order to ensure compliance with the Trade Practices Act 1974 (Cth).

The CBH Group's monopoly on storage and handling ceased in 1989 when changes to the Bulk Handling Act 1967 (WA) were passed through the Parliament of Western Australia. Storage and handling of grain in Western Australia is open to competition.

Contrary to a number of issues raised in the Issues Paper, it is the contention of GPPL that the storage and handling environment, including access to infrastructure and realistic pricing, does not favour the main export licence holder or in any way disadvantage special export licence holders, rather, it reflects the cost of transacting in an increasingly complex and competitive environment. (GPPL, p18)

CBH Grain Operations does not allocate priority to GPPL at the expense of other acquirers. Rather, it provides priority to customers complying with the CBH grain Operators Export Accumulation Queue policy. The CBH Grain Operations Export Accumulation Queue policy provides a transparent overview of the guidelines that all acquirers, including the GPPL must operate within. (GPPL, p20)

However, a number of submissions raised the issue of fair and open access to grain storage, handling and port facilities infrastructure, including that:

The Economic Regulation Authority establish and secure a regime to guarantee access to designated grain storage, handling facilities, and the provision of services for the satisfactory and competitive export of commodities from WA. (AGEA, p6)

AWB believes that the review of the Grain Marketing Act would not be complete without also considering supply chain issues, in particular the operation of both the rail network and the storage and handling of grain exports. It is AWB's view that there needs to be fair and open access to all logistics facilities and the current regime does not provide that. As grain markets move increasingly towards deregulation policy makers need to be mindful that there are not unintended consequences. An example in the grains industry could be

increasing competition in the grains export market, but seeing that competition restricted through the lack of competition among grain export terminals. (AWB, p2)

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 infrastructure in this state. The facilities were built and financed by the growers for the use of growers and as such should be available for the use by all exporters. (Kim Halbert, p7)

The WAFarmers Submission noted that:

WAFarmers believes a direction from the Treasurer to the ERA that port infrastructure access regime matters are expressly not within the Terms of Reference. Whilst there is no express reference to access regime issues within the Terms of Reference a direction is required to avoid the inquiry going into areas beyond the intended scope of the work.

If the Treasurer will not give such a direction to the ERA, WAFarmers believe a definitive statement from the Authority is required as to its intentions with regard to addressing matters to do with access to port Infrastructure. (WAFarmers, p17)

While there is no express reference to infrastructure access within the Terms of Reference, the Terms of Reference do provide for the Authority to consider alternative regulatory models that could be applied in Western Australia and other matters that could be relevant to the operation and effectiveness of the *Act*. The Authority considers that the implementation of port access/monitoring arrangements, as evidenced in Victoria and South Australia, complement alternative grain marketing models and as such, are of relevance to this inquiry.

Developments in South Australia, Victoria and at the Federal level are discussed in turn.

South Australia

In South Australia, ESCOSA is responsible for price monitoring of ports and port infrastructure. Price monitoring is established under the Ports Price Determination, which allows/requires regulated service providers to:

- set their own prices;
- post a comprehensive price list for their services; and
- enter commercial arrangements involving different prices and/or price structures than the posted prices listed if both parties agree.

The Determination also allows ESCOSA to monitor and report on prices and associated performance through that period, including benchmarking against other relevant ports as appropriate.

The SA Barley Marketing Working Group noted that there were a number of grain handling and transport issues that may limit the effectiveness of open market competition.

Another grain infrastructure issue that was raised during consultations was the management of the shipping stem. The shipping stem is the term used to describe the port by port breakdown of what ships are due at a given time. The issues surrounding the shipping stem are related to not having a clear and transparent nomination of whether vessels are pre or post ABB vessels, which makes it unclear which nomination a third party holds and therefore what order the vessel is due.

It is important to have a clear and transparent booking system, where the owner of the ship loader cannot disadvantage the other party simply because they own the infrastructure.¹²⁰

The SA Barley Marketing Working Group considered that there were two possible options for managing this issue, either that ESCOSA manage the shipping stem independently, or that ABB Grain post the shipping stem on a private web site so that other parties may have access to the information.

Victoria

In Victoria, following amendments made in 2003 to the *Grain Handling and Storage Act 1995 (GHSA)*, direct price regulation of the services at the ports of Geelong and Portland was replaced by a negotiate-arbitrate access regime. Under this framework, GrainCorp Operations Limited, the owner/operator of the regulated terminals, was required to provide access to its export grain handling and storage facilities on 'fair and reasonable terms'.

Under the negotiate/arbitrate regulatory framework, the Essential Services Commission (**ESC**) will only make a determination concerning prices if notified that parties cannot agree on terms and conditions of access to the prescribed services. The prescribed services include grain receivals, testing and loading, but do not incorporate the 'shipping stem' (includes vessel scheduling and berthing priorities).

The access regime for export grain terminals in the GHSA was further amended in September 2007. The amendments facilitated the introduction of 'light handed' general access undertakings, with these undertakings (for the ports of Geelong, Portland and Melbourne) to be approved by the ESC.

In essence, Bulk Grain Terminals have been determined to be significant infrastructure facilities and, as such, access to them and use of their services must be available to all grain marketers on fair and reasonable commercial terms. The access undertakings are to:

- be for a period of two years, commencing 31 January 2008;
- commit to non-discriminatory access to all parties;
- commit to publish terminal access prices; and
- commit to a binding dispute resolution process.

Proposed access undertakings were submitted (in January 2008) by GrainCorp (for the Portland and Geelong Terminals) and Australian Bulk Alliance (**ABA**) (for the Melbourne Port Terminal).

The ESC draft determination (released on 28 March 2008) notes that both GrainCorp and ABA need to submit revised undertakings (with further details on pricing and conditions) by 9 April 2008.

Developments at the Federal Level

The draft of the Wheat Export Marketing Bill 2008 addresses the issue of access to infrastructure. The new legislation will require a corporation or body corporate that is seeking accreditation, and is also a port service provider, to have an ACCC-approved access undertaking in relation to port services.

¹²⁰ SA Barley Marketing Working Group 2006, Final Report.

Regarding the accreditation procedures, the Federal Minister for Agriculture, Fisheries and Forestry noted:

We need to ensure we do not replace a single wheat export monopoly with three regional monopolies at the ports. I have therefore included a special requirement for any company that operates a bulk grain handling facility at a port terminal. On applying for accreditation they will be required to grant access to that port terminal facility to other exporters as a condition of their accreditation.¹²¹

In commenting on the new wheat export arrangements AWB has noted:

The key to successful implementation will be grower education and risk management support, an orderly transition of industry good services to government and industry providers, fair access to storage and handling infrastructure and grower protection from market power through improved transparency of pricing at silo and appropriate trade practices scrutiny.¹²²

Section 20 of the Bill sets out the requirements for the access test. The explanatory note accompanying the bill explains that in respect to section 20:

Bulk handlers currently provide port terminal access to other exporters. However, some industry stakeholders have raised the possibility of these bulk handlers limiting access to their port terminal facilities by other exporters and thereby risking regional monopolies developing under the new arrangements.

The intent of this item is to guarantee port terminal access to all accredited exporters while at the same time not restricting the ability of port terminal operators to function in a commercial environment.

It sets out the access conditions that exporters who also operate grain storage and handling facilities at ports have to agree to before being accredited. If the port terminals are not already covered by an effective access regime as certified by the National Competition Council then the following arrangements apply.

For the period until 1 October 2009, they must agree to provide access to accredited exporters and publish the terms and conditions for access to other exporters on their internet site before they can be accredited.

For the period after 1 October 2009, they must enter into an access undertaking agreeing to provide access to accredited exporters. The undertaking must be approved by the Australian Competition and Consumer Commission (ACCC).

Given that WA port terminals are not covered by an access regime, CBH (as a bulk handler) would need to meet the above access conditions for GPPL to become an accredited wheat exporter.

Developments in Western Australia

Wheat export deregulation should increase the number of active grain traders in WA. As one example, the WAFarmers (in alliance with grain trader Emerald) have announced their intention to establish a new members-only wheat pool, with a target of up to 500,000 tonnes for the 2008/09 harvest.

The Authority notes that CBH is currently drafting a new policy ('Grain Express') which relates to its grain network logistics. CBH is consulting with stakeholders on the draft policy, which includes:

¹²¹ Burke, Tony, MP, Ministerial Statements: Wheat Export Marketing Bill 2008, 13 March 2008. Note that the 'three regional monopolies' refer to CBH in WA, ABB Grain in SA and GrainCorp in NSW/Victoria.

¹²² Davis, G. 2008, op. cit..

- proposed changes to the current fee structure (e.g. removal of export accumulation fees, bundling of freight/storage and handling charges);
- the posting of all acquirers' prices on one web site; and
- changes to the grain logistics management (e.g. rather than the actual acquired parcels of grain being accumulated and transported to the export terminal, acquirers will receive 'equivalent' grain (with a specified quality) at the terminal).

Under the new Federal wheat export scheme, there is expected to be a CBH access undertaking regarding wheat exports from Western Australian port facilities. CBH has indicated that it will offer similar conditions for exports of other grains.¹²³ An ACCC-approved access undertaking has the potential to address a number of stakeholder concerns regarding access to port facilities.

8.1.3 Investment

Grain accumulators, with the exception of CBH, have not made significant infrastructure investments in Western Australia. Deregulation of the export grains industry in WA has the potential to increase investment, most notably in the value-adding sector.

Submissions by the grain traders noted that there has been limited investment to date due to the restricted access to grains.

AGEA members have often made substantial investments in infrastructure and grower services. Yet in most instances, most AGEA members have maintained only a limited presence in Australia, since market access to the most important grains has been subject to various forms of regulation by state and federal government. (AGEA p2)

Avoiding uncertainty and delayed decision making for private traders, who cannot purchase grain for export until they are advised they have a licence and applications may not be successful. Greater certainty would assist their decision making and may also mean they invest more in the industry. (DTF p6)

It is an important investment note to make that our company is not only adequately resourced, but also has intentions to invest heavily in the Western Australian Grains industry so far as storage in strategic areas. However not a cent can be spent until the level of deregulation suggested above [SA-type system] is adopted by government. The GLA's issuance of multi-year licenses does not offer anywhere near enough investment certainty to spend several million dollars on storages across the state. (Glencore p16)

Cargill (member of the AGEA) has noted that while it is committed to investing \$140 million in Australian markets that are 'open and competitive', such as oilseed processing and domestic flour milling, there is no incentive for Cargill to invest in the regulated wheat market.¹²⁴ The PGA submission also comments on wheat deregulation:

WA is a very attractive origin to accumulate grain for the world wheat market. It is estimated that WA will produce up to 8 to 10 per cent of the world's internationally traded wheat. With the presence of multiple traders this volume of grain will attract, and the investment we wish to encourage in the industry, it would make sense to have all of our barley, lupins and canola available for competitive buying. (PGA,p7)

Wheat market deregulation should provide incentives for industry investment, given wheat accounts for around 80 per cent of WA grain exports. Access to larger volumes of grain

¹²³ CBH, email comm., April 2008. CBH noted that 'All users of the CBH grain storage network will have open and equitable access to up country and port terminal facilities for all grain types'.

¹²⁴ Cargill 2007, Submission to the Wheat Export Marketing Consultation Committee, Submission No. 591.

(and associated economies of scale) in WA may lead to marketers building storage/loading facilities and/or value adding facilities such as canola crushing plants.

8.2 Conclusions

Access to infrastructure is an important element in ensuring competition in the accumulation of grains. The Authority considers that fair and open access to port loading facilities is essential for the efficient operation of the Western Australian grain market. Proposed developments at the Federal level (namely, the ACCC to approve a CBH access undertaking regarding wheat exports from Western Australian port facilities) have the potential to address a number of stakeholder concerns regarding access to port facilities.

Overall, deregulation of the wheat industry is likely to lead to investment in Western Australia, resulting from multiple traders having access to larger quantities of grain and the increased certainty for traders to export wheat.

Findings

- 10) Access to infrastructure is an important element in ensuring competition in the accumulation of Western Australian grains.
- 11) Deregulation of the wheat industry is likely to lead to investment in Western Australia, resulting from multiple traders having access to larger quantities of grain and the increased certainty for traders to export wheat.

9 Would an Alternative Regulatory Model be More Effective?

Under the Terms of Reference, the Authority is to consider and have regard to:

- 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:
 - alternative regulatory models that could be applied in Western Australia;

9.1 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 1990's. Over the past eight years, and following NCP reviews, State regulation of exported grains has been gradually replaced by open markets. For the 2007/08 season, WA was the only State continuing to regulate exports of barley, canola and lupins via a licensing system (noting that barley exporters are accredited in SA).

9.2 Regulatory Options

As presented in the findings in Chapter 5, there is little evidence to suggest that single desk marketing results in price premiums to growers or that there is a net public benefit from such a regime. Further, there is no evidence that restrictions on barley, canola and lupins results in a net public benefit.

In light of these findings, there appears to be little evidence to support the continuation of the current restrictions on coarse grain marketing in Western Australia.

There would appear to be two options for future grain marketing arrangements in WA.

- Adopt a 'light handed' regulatory approach, with independent licensing of grain export marketers (similar to SA); or
- Full deregulation (as in Victoria).

These two options are discussed in turn.

9.2.1 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. The key components of the transition process were:

- an independent regulator to be responsible for licensed accreditations of barley export marketers; and

- a program of grower education to ensure a greater understanding of the implications of deregulation in the barley export market.¹²⁵

In July 2007, ESCOSA became responsible for granting export licences (for the three year transition period).¹²⁶ 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.¹²⁷

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.¹²⁸

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; and
- 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 be a NACMA member and

¹²⁵ SA Barley Marketing Working Group 2006, op. cit.

¹²⁶ 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.

¹²⁷ ESCOSA 2007, Licensing Arrangements For The South Australian Barley Exporting Industry, AB5/1 May 2007.

¹²⁸ ESCOSA 2007, op. cit.

comply with industry codes. As at March 2008, ESCOSA had granted export licences to eight grain traders.

ESCOSA indicated that annual costs for the accreditation and licensing process would be in the vicinity of \$150,000.¹²⁹ ESCOSA licence application fees have been set by the Minister at \$2,500, with the annual barley exporting licence fee set at \$12,500.¹³⁰

The proposed Federal Government scheme for bulk wheat exports is similar to the SA regime, with accreditation granted to applicants with 'demonstrable financial capacity and reputation'. In addition, and as was discussed in section 8.1.2, to become an accredited wheat exporter, grain traders who are also bulk handlers will need to meet ACCC conditions for providing access to their port terminal facilities.

9.2.2 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.

A Victorian Government review of grain market deregulation notes that:¹³¹

...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).

The Australian Securities Exchange (**ASX**) has noted that:

Active grain futures markets exist in almost every major grain producing region. In this regard, Australia is somewhat of an exception.

and that if grain export markets were fully deregulated:

ASX would consider new product offerings not just for wheat but also for feed barley, canola and potentially lupins in SA and WA.¹³²

The DTF submission notes:

There is a strong evidence that full deregulation will deliver additional benefits over partial deregulation:

¹²⁹ SA Barley Marketing Working Group 2006, op. cit.

¹³⁰ ESCOSA 2007, op. cit.

¹³¹ Department of Treasury and Finance Victoria, Legislation Review.

¹³² ASX 2007, Submission to the Wheat Export Marketing Consultation Committee, 23 February 2007.

- attracting more private traders leading to more competition with better prices to growers;
- enabling savings to GPPL and private traders by avoiding the cost of GLA and its compliance requirements; and
- providing predictability of grain purchase arrangements for private traders and growers who would not need to cope with the uncertainty of whether they will or will not be granted a licence;

On the basis of the above, there is a good case for full deregulation. Partial deregulation, specifically the role of the GLA would seem to have been a useful transition for growers and the GPPL to a fully deregulated market.

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.

9.3 Analysis

9.3.1 *Impact of the Introduction of the SA Licensing Regime*

Regarding the implementation of the SA system, AWB Managing Director, Gordon Davis noted:

The South Australian scheme was implemented quickly and smoothly following the end of the Barley Single Desk and has been tried and tested in its first full year of operation. The South Australian experience should provide growers with confidence that a wheat export accreditation system can be fully implemented before the next harvest and that it will be successful.¹³³

With the introduction of the SA accreditation system, WA is now the only State with restrictions on the exports of coarse grains. Several submissions noted that SA now has a relative advantage for coarse grain exports.

In the current contestable marketing environment operating in most of Australia, grain exporters clearly identify a more efficient pathway to obtain the supply of grain for bulk exports, by purchasing from de-regulated states rather than from W.A. Exporters seeking to purchase coarse grain in W.A, specifically because of W.A's closer proximity to the Middle East and subsequent lower freight costs, can now look to neighboring South Australia as a suitable alternative. While South Australian coarse grains often need to be freighted longer distances to export markets, an exporter does not need to go through the longwinded and costly process of obtaining an export license such as those issued by the GLA, thus making South Australia a more attractive grain market than the market that lies across it's western boarder. (AGEA p3)

..Whilst South Australia retained its barley single desk, WA barley growers held a competitive advantage over their SA counterparts.

With the end of the barley single desk in South Australia, the market anomaly that had been of benefit to WA growers was reversed.

South Australia growers, able to gain export parity price, found cash bids jumped by up to \$25 per tonne, while WA cash bids seemed to be around \$10 under parity (taking into account the freight advantage of shipping from WA ports). Anecdotally the trade's explanation for this was that SA became a much more attractive business opportunity than WA.

..is certainly a system that WA should consider implementing, where the right balance between regulation and free market operation is met. (PGA, p4)

¹³³ Davis, G. 2008, 'AWB welcomes clarity on wheat export marketing', Media Release 6 March 2008.

The submissions indicate that traders are more likely to export barley from the deregulated South Australian market (given good seasonal supply) rather than obtain a GLA export licence. As noted earlier in this report, CBH and ABB Grain jointly market export barley under a venture named Grain Australia. While the Grain Australia venture has continued post-deregulation in SA, ABB's market share of SA barley exports will decline with the entry of other traders into that market. As such, direct competition for WA barley sales would be expected from South Australian barley acquired by these traders.

9.3.2 Introduction of an Accreditation Scheme in WA

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

- this framework would have a net benefit given the regulatory costs;
- utilising the assessment criteria (of an exporter's technical and financial capabilities) would lead to an increase in actual volumes shipped by current SEL holders; and
- the timetable for further grain market deregulation in Australia, primarily wheat export deregulation.

Several submissions noted their support for the introduction of a SA-type accreditation scheme in WA, including Glencore:

This system is certainly a system that WA should consider implementing, where the right balance between regulation and free market operation is met. (Glencore, p16)

Marketers can now look to South Australia as a significant alternative to Western Australian barley and not pay any GLA export license fee. This can surely be to the detriment of the people the GLA was set up to protect - WA growers. (Glencore, p4)

and the AGEA, who noted 'several positive outcomes', as:

- A range of new selling options for growers will be made available due to the newly increased presence of grain exporting companies in W.A.
- A wider range of grower services will be made available in WA including a year round price competitive cash markets for (prescribed) grains.
- The introduction of new pricing options will increase and improve market signals received by growers that will in turn lead to better production decisions and an improvement in the use of the state's resources.
- Net returns to growers will improve as supply chain costs, including trading margins, are reduced through competition.

In contrast, the WAFarmers submission noted:

- The majority of WA growers would not support adoption of a SA-style model.
- The SA-style regime is effectively market deregulation and would lead to a loss of grower confidence in the WA industry.

The Authority notes that there are existing industry-wide quality assurance arrangements which apply to grain sales and the majority of grain traders are members of the National Agricultural Commodities Marketing Association (NACMA). Companies can also apply to become a registered bulk handler with NACMA. The standard annual storage and handling contracts (and charges) for these companies are then lodged with NACMA (and publically available).

NACMA has established commercial grain standards and trade rules which are used for the majority of grain contracts. In the case of contractual disputes, NACMA members undertake to abide by a NACMA resolution procedure (includes an appeal process). This framework will continue regardless of whether an exporter of grain is licensed under an accreditation scheme.

The two key components of the SA scheme are accreditation of exporters and assisting growers to adapt to the removal of 'single desk' barley exports. The presence of the GLA system in WA for over five years has already provided growers with the opportunity to deal with multiple traders - and for those traders to demonstrate their financial and technical capabilities (including adherence to industry standards).

The Authority believes therefore, that the introduction of a SA-type accreditation scheme for WA prescribed grain exports would provide minimal benefits, given the transitional benefits already derived under the GLA system.

However, the Authority notes that the State Government may consider an accreditation scheme appropriate for exporters of prescribed bulk grain from WA, reflecting a desire for consistency with the proposed Federal wheat export scheme. If this is the case, the Authority believes that all grain exporters that have already been accredited by a regulatory agency (i.e. ESCOSA or the WEA) should, by default, receive accreditation for prescribed grain exports. Traders who don't already have accreditation (i.e. for Australian wheat exports or South Australian barley exports), but who wish to export prescribed grains from WA, could be licensed under an accreditation system for prescribed grains.

For efficiency reasons, an accreditation scheme for prescribed grain exporters would best be administered by the State Minister for Agriculture and Food. The Authority believes that there would be limited demand for this service given that the prescribed grain exporters currently operating in Western Australia either have ESCOSA accreditation or would be expected to apply for wheat export accreditation.

9.4 Conclusion

As presented in the findings in Chapter 5, there is little evidence to suggest that single desk marketing results in price premiums to growers or that there is a net public benefit from restrictions on bulk export marketing. In light of these findings, there appears to be little evidence to support the continuation of the current restrictions on the marketing of Western Australian prescribed grains.

The removal of the current licensing requirements is likely to lead to greater competition in the WA grain accumulation market and will ameliorate a number of the concerns raised, including the lack of liquidity in the market that limits the ability of traders to undertake stock swaps.

The Authority notes that enhanced supply logistics and open access to infrastructure will impact on the effectiveness of further grain market deregulation.

Given the above considerations, the Authority considers that the introduction of a SA-type accreditation system for prescribed grains is unlikely to deliver significant benefits.

Findings

- 12) The removal of the current licensing requirements is likely to lead to greater competition in the WA grain market.
- 13) The introduction of a SA-type accreditation system for prescribed grains is unlikely to deliver significant benefits.

9.5 Draft Recommendations

The Authority considers that the GLA has successfully allowed growers to transition from the single desk environment to a market with multiple traders of grain. Growers are now familiar with a system of multiple buyers offering a variety of pool and cash products. Given this, and in light of the timetable for proposed changes to bulk wheat exports, new arrangements should be put in place for prescribed grain exports.

The Authority's draft recommendations for grain marketing arrangements are that:

- barley, canola and lupins should no longer be prescribed;
- the GLA is no longer required to assess export licences; and
- the *Grain Marketing Act 2002* should be repealed.

It is the Authority's view that the prescribed grain export market should be totally deregulated. With this deregulation, the GLA would no longer be required to assess export licences. The Authority does not consider that an accreditation system needs to be implemented for exporters of barley, canola and lupins from WA.

Given the introduction of the new Federal wheat export scheme, it would be preferable that the recommended arrangements for barley, canola and lupins exports be in place for the 2008/09 harvest.

9.5.1 Implications of the Authority's Recommendations

The key issues arising from the inquiry (including issues raised during the consultation process) regarding the future direction of grain marketing in Western Australia were:

- market competition;
- market liquidity (including grain swaps); and
- infrastructure access.

The Authority believes that total deregulation of the WA grain export market should address current barriers to effective market competition and deliver enhanced liquidity in the market. The opening up of the wheat export market and increased grain marketing competition is likely to address a number of stakeholder concerns, including the ability of grain traders to compete effectively in the market.

Under the new Federal wheat export scheme, there is expected to be a CBH access undertaking regarding wheat exports from Western Australian port facilities. CBH has

indicated it will offer similar conditions for exports of other grains. An ACCC-approved access undertaking has the potential to address a number of stakeholder concerns regarding access to port facilities.

Draft Recommendations

- 14) The Authority's draft recommendations for future grain marketing arrangements in WA are that:
 - barley, canola and lupins should no longer be prescribed;
 - the GLA is no longer required to assess export licences; and
 - the *Grain Marketing Act 2002* should be repealed.
- 15) Given the introduction of the new Federal wheat export scheme, it would be preferable that the recommended arrangements for barley, canola and lupins exports be in place for the 2008/09 harvest.

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

World consumption of coarse grains is expected to reach a record 1.05 billion tonnes in 2007-08. Reflecting constrained production in key producing countries due to adverse seasonal conditions and strong growth in global feed demand and for biofuels, world barley stocks are forecast to decline by around 25 per cent in 2007-08, to one of the lowest levels in forty years.¹³⁴

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.¹³⁵ 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.¹³⁶

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.¹³⁷ The smaller volume of Australian exports traded at a premium to Canadian exports.¹³⁸

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. Reflecting tight global grain supply, EU malting barley prices (FOB Moutgars) have risen by around \$100 per tonne since July 2007 to be currently around US\$500 per tonne.¹³⁹

Reviewing Australian malt barley export prices from 2002 to 2007 shows a significant increase in export prices since mid-2007. In addition, since mid-2007 the price differential between average Australian export prices (primarily related to exports from Western Australia and South Australia) and Adelaide prices has dissipated (see Figure A2.1). For Western Australian exporters, cash contracts prices for malting barley are currently around US\$370 per tonne (FIS), with prices of US\$300 per tonne (FIS) for feed barley.¹⁴⁰

¹³⁴ ABARE 2007a, Outlook for 2007-08 and Industry Productivity, Australian Grains 07.2.

¹³⁵ Department of Agriculture and Food WA 2007, op. cit..

¹³⁶ Sparks Companies Inc. 2004, *The Canadian Barley Industry in Transition: A Study for Alberta Agriculture, Food and Rural Development*, April 2004.

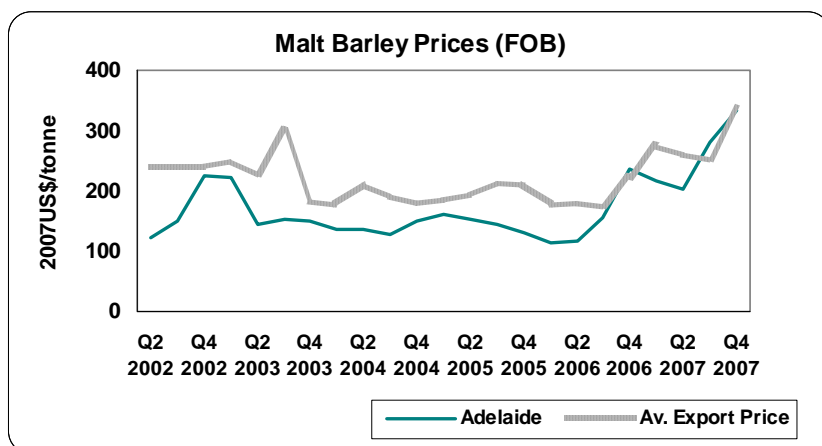
¹³⁷ Canadian and Australian barley exports were around 30 per cent of their 4-year average.

¹³⁸ Schmitz A., Schmitz T.G. and R. Gray 2005, *The Canadian Wheat Board And Barley Marketing*.

¹³⁹ South African Grain Information Service.

¹⁴⁰ Daily cash price offered by AgraCorp as at 14 March 2008. Quoted prices are FIS (Free-in-store) and are inclusive of receival and grain assessment fees. To compare the FIS price to the equivalent FOB price,

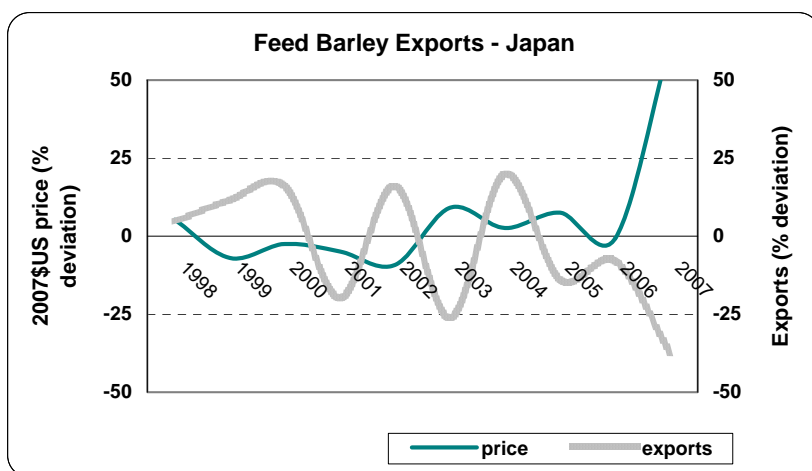
Figure A2.1 Malt Barley Export Prices



Source: South African Grain Information Service, ABARE Crop Reports.
 Note: Average export price is derived from the export unit value, which is the average price for one tonne of exported Australian barley.

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.¹⁴¹ Prices show lower variability than the annual Australian export volume to Japan (see Figure A2.2).

Figure A2.2 Feed Barley Prices (CIF Japan) and Australian Exports



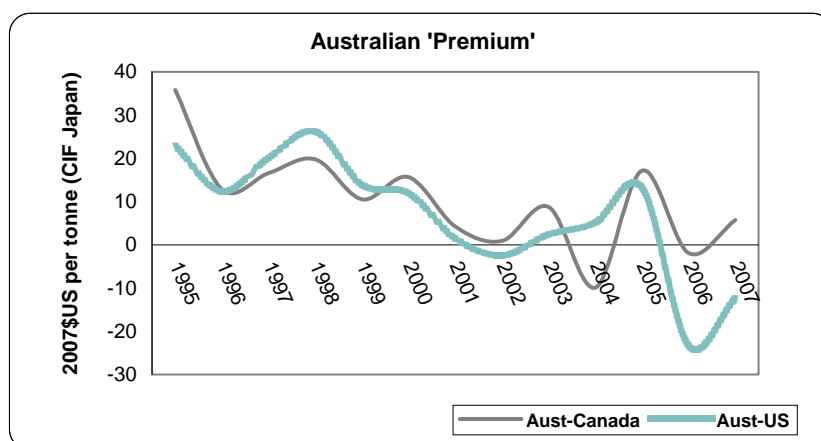
Source: South African Grain Information Service, USDA Gain Reports, Japan Grain and Feed Annual Reports (various).

the costs of storage and moving the grain from the in-store terminal to the vessel need to be added to the FIS price.

¹⁴¹ Enhances fine marbling of the meat.

Reviewing Australian feed barley exports to Japan, during the period 1995–1999 the average Australian price premium over prices received by Canadian and US exporters was US2007\$19 per tonne. However, over the period 2000–2007 this premium had declined to an average US\$2 per tonne, with Australian barley trading at a discount to US feed barley in 2006 and 2007. (see Figure A2.3).

Figure A2.3 Feed Barley Price Trend – CIF Japan



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

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.¹⁴²

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 Australian Barley Board.¹⁴³ 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

¹⁴² Sparks Companies Inc. 2004, *The Canadian Barley Industry in Transition: A Study for Alberta Agriculture, Food and Rural Development*, April 2004.

¹⁴³ NCC Community Information 2000, *Securing the Future of Australian Agriculture*.

Canada) is sold at very similar prices to conventional canola in most major canola markets.¹⁴⁴

Global canola prices have increased by over 40 per cent since mid-2007, reflecting increased demand from food and biofuel industries.¹⁴⁵ Given drought conditions in the eastern states, Western Australia will account for nearly all of Australia's canola exports in 2007/08. For Western Australian exporters, cash contracts prices for canola are currently around US\$690 per tonne (FOB).¹⁴⁶

Lupin prices reflect their protein content, with export lupin prices generally following world soybean prices (i.e. lupins are sold on a protein equivalent basis to soymeal). Soybean prices have increased by around 70 per cent in the past year with soybean prices reaching record highs in March 2008.¹⁴⁷ The average WA domestic price (Perth delivery) in December 2007 had increased to around A\$320 per tonne, nearly double the price in December 2006.¹⁴⁸ Export prices for the 2007/08 harvest have been at high levels, peaking at A\$360 per tonne delivered port. Given forecast receivals for the 2008/09 harvest of approximately 500,000 tonnes, GPPL expects lupin prices to be in the range of \$A280–300 per tonne (FOB) for the that season.¹⁴⁹

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.

Over the period 1998–2007, the average share of Japan's feed barley imports were Australia (52 per cent), Canada (16 per cent) and the US (28 per cent). The correlation between total Australian feed barley exports and the share of Japan imports is illustrated in Figure A2.5.

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 10 year average and the Australian share of Japan's feed barley imports fell to 40 per cent (compared to the average 52 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.

¹⁴⁴ ABARE 2007, op. cit.

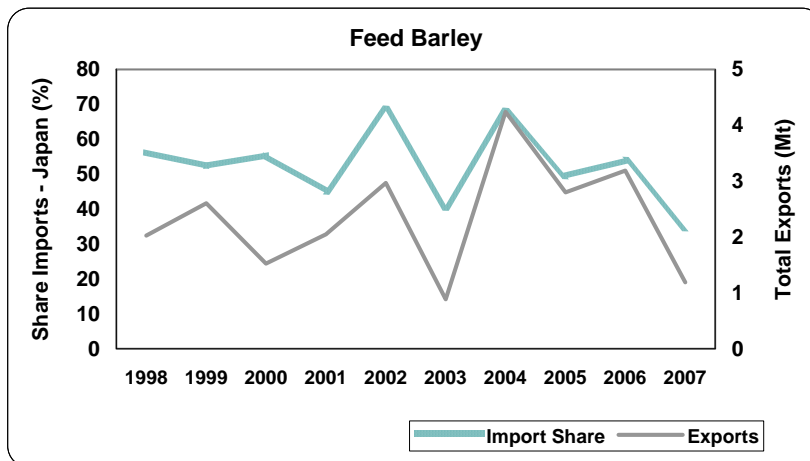
¹⁴⁵ Westpac NFF Commodity Index February 2008.

¹⁴⁶ Daily cash price offered by Glencore as at 14 March 2008. Quoted prices are FOB and are inclusive of receival and grain assessment fees.

¹⁴⁷ Sim, G. 2008, Bloomberg media release, March 25 2008.

¹⁴⁸ ABARE 2008, *Crop Report*, February 2008.

¹⁴⁹ GPPL 2008, Outlook Meetings, March 2008.

Figure A2.4 Feed Barley – Total Australian Exports & Market Share of Japan Imports

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

An examination of the Saudi import barley market (where 80 per cent is used for feed) showed a similar outcome. For the period 2001–07, the average market share for Australian imports was 22 per cent. In 2003 the Australian share was a low 3 per cent, compared to a 59 per cent share in 2004.¹⁵⁰

Canada and Australia are the two largest exporters of canola, a global market share of around 75 per cent and 15 per cent respectively. Western Australia contribution to global canola trade has ranged from 11 per cent in 2003/04 to 5 per cent in 2006/07.¹⁵¹ Canola production in 2006/07 (0.36 million tonnes) was constrained due to seasonal conditions, with production in 2007/08 (0.67 million tonnes) more reflective of the five-year average for WA.¹⁵²

The majority (around 70 per cent) of Australian canola production is exported, primarily to Japan, Pakistan and the EU.

Australia is the world's largest exporter of lupins, with the majority of exports derived from WA. Reflecting poor seasonal conditions, Australian exports are expected to be around 0.16 million tonnes in 2007/08, compared to 0.5 million tonnes in 2005/06.¹⁵³

¹⁵⁰ USDA Gain Reports, Grain and Feed: Saudi Arabia Annual Reports (various).

¹⁵¹ GLA 2008

¹⁵² GPPL 2008, op. cit.

¹⁵³ ABARE 2008, op. cit.

Appendix 3: Glossary

ABARE	Australian Bureau of Agricultural and Resource Economics
ACCC	Australian Competition and Consumer Commission
<i>Act</i>	<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
COAG	Council of Australian Governments
CWB	Canadian Wheat Board
EPR	Estimated Pool Return
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
GM	Genetically modified
GPPL	Grain Pool Pty Ltd
GPWA	Grain Pool of Western Australia
GRDC	Grains Research and Development Corporation
IEG	(Wheat) Industry Expert Group
MEL	Main Export Licence
NACMA	National Agricultural Commodity Marketing Association
NCC	National Competition Council
NCP	National Competition Policy

Glossary (ctd.)

NSW	New South Wales
SA	South Australia
SEL	Special Export Licence
SBS	Simultaneous buy and sell
WA	Western Australia
WEA	Wheat Exports Australia