

22 May 2008

Ms Julie Harman
Manager Strategic Issues
Economic Regulation Authority
PO Box 8469 Perth Business Centre
PERTH WA 6849

RE: Economic Regulation Authority (ERA) Review of the *Grain Marketing Act 2002*

Dear Ms Harman,

Emerald Group Australia Pty Ltd is a leading Australian owned, independent grains commodity manager. We operate canola, barley and wheat marketing pools and fixed price contracts for Australian farmers, and have a particular focus in Western Australia. In the 2007/08 season Emerald was the third largest accumulator of pool wheat in Western Australian.

Emerald generally endorses the recommendations made by the Economic Regulation Authority (ERA) in its draft report into the Review of the *Grain Marketing Act 2002*. Emerald believes that Western Australian growers will be best served by a deregulated, open and transparent grain marketing system.

We wish to draw attention to several issues which are critical to our clients, WA grain growers, and our growing business.

1. The value of the current system is limited

1.1 GLA system is not suited to international grain trading

Emerald believe that the existing GLA licensing system is cumbersome and while it has brought some benefits to the industry this system is no longer adding value to growers. The current licensing system is slow to adapt to the fast and ever changing nature of international grain trading. Ongoing trading relationships in this international sphere change quickly and the GLA system does not accommodate such dynamics efficiently.

1.2 WA Growers marketing opportunities are limited by the current system

WA is the only remaining state with regulated marketing systems for barley, canola and lupins since the opening up of the South Australian market which leaves WA growers with limited marketing opportunities. While some Special License Holders have been able to accumulate under the GLA scheme these have been limited and growers are still not

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afforded total choice. WA growers are even more limited given a large percentage of their barley and canola crops are exported and the domestic market is limited.

2. Access to up-country infrastructure needs to be protected to maximize farm gate competition.

While the ERA's recommendation 10 goes part way to cover this issue Emerald believes that access to up-country infrastructure also needs to be addressed. We are aware that this issue is being considered in the context of revised national wheat marketing legislation, however Emerald believe that this access must extend to all receival sites in WA.

Farmers need maximum buying competition at the farm gate/local silo level. The dominance of the existing port and upcountry infrastructure provider (CBH) must be recognised and considered as a part of changes to marketing legislation. Open, transparent and fair access to this infrastructure must be guaranteed for third party marketing providers if growers are to be guaranteed competitive prices and the market is to operate efficiently.

I refer you to Emerald's submission (attached) to the Australian Senate Standing Committee on Rural & Regional affairs & Transport into proposed wheat marketing legislation for a more detailed exploration of this issue. Should you require any further information regarding our view on review we would be more than happy to provide you with further detail.

Yours sincerely

Mike Chaseling

Deputy Chairman

22 April 2008

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

Dear Ms Radcliffe,

RE: Submission on Wheat Export Marketing Bill 2008 and Wheat Export Marketing (Repeal and Consequential Amendments) Bill 2008

The Emerald Group Australia Pty Ltd is a leading Australian owned, independent grains commodity manager who operates grain marketing pools, fixed price contracts and a range of risk management products for Australian farmers.

In 2007/08 season Emerald was the third largest accumulator of pool wheat in Western Australian and we operate nationally in wheat, barley and canola.

The Emerald group is pleased to make a submission to the Committee on the draft wheat marketing legislation.

Yours sincerely

Mike Chaseling
Deputy Chairman

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Australian Senate
Standing Committee on Rural and Regional Affairs and Transport
Inquiry into the Wheat Export marketing Bill 2008 and Wheat Export Marketing
(Repeal and Consequential Amendments) Bill 2008

Submission by Emerald Group Australia Pty Ltd

EXECUTIVE SUMMARY

Changes to Australian bulk wheat export regulation would precipitate significant re-alignment of market power within the wheat industry, should they be implemented as proposed by the Federal Government.

As a locally owned, independent wheat marketer with national operations, the Emerald Group* has identified a number of key issues we believe are essential to the successful transition of the industry from statutory marketing to an openly contested market, which should be addressed in the new legislation. These issues include:

- Guarantees relating to open and fair access to BOTH port AND upcountry grain storage and handling infrastructure. This essential infrastructure is required to maximise grain export opportunities and deliver true competition to farmers at the farm gate;
- Guarantees relating to fair, equitable and transparent access to bulk shipping berths for all bulk exporters;
- Guarantees relating to the timely declaration of information essential for the efficient operation of the market. This includes information on grain stocks by port zone and class (held by storage and handling companies) and exports by class and destination (held by exporters); and
- The proposed accreditation process for bulk wheat exporters should reflect the underlying principle that the greater the number of accredited bulk wheat exporters, the greater the benefits will be for Australian farmers.

If these issues are adequately addressed and safeguarded in the new wheat marketing environment, benefits for the industry are likely to include:

- True competition amongst buyers for farmers' grain at the farm gate / local silo level, which is the primary determinant of the benefit of deregulation for farmers;
- A state of natural balance in the industry, where entrepreneurial expertise, endeavour and innovation – not inherited monopolistic power – determine exporters' success and commercial outcomes; and
- Improved market liquidity, which results in more competitive offerings to farmers and a more secure marketing environment.

ACCESS TO INFRASTRUCTURE

Restriction of access to both port and most importantly upcountry storage and handling infrastructure is the single biggest threat to farmers receiving fair and competitive prices for their grain. Open and fair Access to exiting infrastructure should be protected under the proposed legislation.

Background

- Australia's grain handling infrastructure has been developed and funded over many decades in the interests of the whole of the grain supply chain, and principally with the interests of grain farmers in mind.
 - Of the five major bulk handling companies servicing Australia's grain markets, three are historically linked to government ownership or mandated control of the storage and port network (GrainCorp, ABB, and CBH), and the remaining two are historically linked to statutory marketers (ABA {ABB}, and AWB Grainflow {AWB}).
 - The primary mechanism for delivering pricing signals to grain farmers is through their ability to deliver to a variety of buyers at their local silo.
- The storage and handling network in Australia has been developed around the concept of "co-mingling" whereby ownership of specific grain is mixed between buyers in a single silo cell or location. This system generates efficiencies for the entire industry through reduced infrastructure duplication, improved cargo accumulation capacity and improved efficiencies through reduced segregation requirements. A major concern of non-bulk handling company exporters is that the quality outturned to them is of a sub-standard nature compared to the bulk handling company's own in-house marketing divisions. The negative implications of this practice are obvious.
- In most regions of Australia, local grain handling silos operate in a monopolistic or duopolistic environment and in most cases the local silo is the only direct logistical link a farmer has to the bulk export market.

Implications

- Restricting or providing preferential access to infrastructure to in-house marketing divisions of bulk handling companies has the potential to severely restrict competition – to the detriment of farmers and every other participant in the grain supply chain.
 - This would effectively replace the existing statutory wheat marketing monopoly with regionally based commercial monopolies;

- While major storage and handling companies are likely to claim that 'market forces will drive their behaviour', anecdotal evidence suggests the commercial temptation to favour in-house marketers (at the expense of external marketing service providers) is indeed very strong. Specific examples of this behaviour already in practice include:
 - Internet price listings – in-house marketing options are prioritised above all other marketers, which are listed below in alphabetical order;
 - Warehoused grain information – access to data about grain held by farmers in the storage system is in most cases restricted to in-house marketing operations (and denied to external marketers). This provides in-house marketers with a significant competitive advantage through access to farmers with grain to sell (at the detriment of those farmers due to lack of competitive buying pressure) and limits the ability of farmers to reap benefits from more widely distributed information.
- 'Guerilla' marketing tactics – Emerald is aware that growers have been specifically targeted and asked to explain why they chose an external marketer, rather than employ the services of the bulk handler marketing division.

Infrastructure Access and the ASX Futures Market

- A significant, but less publically debated, issue relates to the operation of the ASX grain futures market. If access to the deliverable locations associated with the ASX grain futures contracts is restricted or in any way loses transparency, we risk rendering the operation of the ASX market untenable.
 - The ASX grain futures market is an essential component of an openly contested market, providing growers with important pricing signals and locally based hedging more directly suited to their risk management profile.
 - This is particularly relevant to the east coast market as the ASX grain futures contracts are deliverable into the east coast storage and handling network

Action

- **By ensuring open and fair access to the existing infrastructure the Australian grain futures market will be able to continue to grow and prosper, delivering farmers and marketers relevant pricing signals and hedging capacity – an essential ingredient to an open and competitive grain market.**

FAIR & TRANSPARENT EXPORT BERTH ACCESS

The ability of marketers to operate on a level playing field, and ultimately provide competitive products and services to farmers, requires fair and transparent access to export shipping berths.

Background

- Priority access to a shipping berth can be worth tens of thousands of dollars per day to the beneficiary of that access. For an exporter the shipping costs commence the moment a vessel has “presented” at port awaiting berthing instructions. Bulk shipping charter rates vary, but for grain vessels they generally start at around US\$10,000 per day and can be as much as US\$100,000 per day (depending on market conditions and the type of vessel).
- With just one shipper of bulk wheat from Australia, and while handling companies are not involved in marketing, there has been little opportunity for conflict in relation to this issue.
- However, this is no longer the case as we are now entering a period where multiple shippers/marketers compete with each other – including bulk handlers who are also marketers.

Implications

- In a competitive export market, combined bulk handler/marketers have a significant conflict to manage in relation to access provided to users of export terminals.
 - A marketer provided with a shipping berth in priority over a competitor presents the opportunity to capture significant profits while choking the commercial ability of the competitor.

Action

- **It is Emerald’s view that rules surrounding vessel nomination, presentation and berth access should be mandated to be open, transparent and equitable, and the execution of these processes and safeguards should be overseen by a relevant authority.**

TIMELY DECLARATION OF ESSENTIAL INFORMATION

Information that is essential to the effective and efficient operation of a deregulated wheat market should be disclosed in a timely and appropriate manner.

Background and implications:

- Currently some information which is essential to the effective and efficient operation of a deregulated market is held by commercial entities, who have the ability to control when and how such data is released. This includes:
 - Grain stocks by class by port zone – which is information held by the bulk handling companies and used to calculate the supply and demand of particular classes of wheat, which then has significant implication with regard to price projection and direction
 - Exports by class by port zone by destination – held by individual exporters and generally easily tracked by bulk handling companies, used again to determine the supply and demand balance and remaining demand requirements of particular export destinations which assists exporters target specific classes of wheat for accumulation
- In an open market, this information should be accessible to all participants at regular reporting periods.
- This information will also support and sponsor a more liquid grain futures market, delivering better and transparent pricing signals to farmers.
- In the United States this information is compiled by the US Department of Agriculture, and their regular updates of timely statistics are a major part of the efficient operation of those markets.

Action

- **Emerald suggests the following procedure:**
 - **Holders of essential information be mandated to supply data in a confidential manner to the relevant authority (most likely ABARE, ABS or the EWC); and**
 - **The disclosing authority collates and disseminates information in aggregate form to the market at monthly intervals.**

THE BULK WHEAT EXPORTER ACCREDITATION PROCESS

The accreditation system for bulk wheat exporters should aim to stimulate a competitive, dynamic industry.

- It is Emerald's view that the accreditation system for bulk wheat exporters should be designed to foster real farm gate competition – the ultimate determinant of success of an open market – by ensuring maximum competitive pressure applies to exporters tasked with marketing Australian wheat.
- For this to occur, export licenses should be issued on appropriate criteria to as many credible exporters as possible.
 - In much of the industry debate so far regarding this issue, exporter scale has been cited as a potential key determining factor, despite scale not necessarily being a good single measure of the role a participant can play in the market. There are many highly successful, niche bulk exporters operating in the global grains market and we believe Australia should not deny itself the opportunity to benefit from such industry.
 - The existence of more competitive pressure would likely apply a natural 'check and balance' for exporters, limiting the opportunity for monopolies and oligopolies to take advantage of their commercial position

*** ABOUT EMERALD**

- Emerald Group Australia Pty Ltd is an Australian located and owned private company involved in offering grain marketing services to Australian farmers
- Emerald specialises in the provision of grain marketing pools.
- Emerald holds an Australian Financial Services License for the provision of advice to wholesale and retail customers in relation to grain derivatives and foreign exchange and for making a market in grain derivatives and foreign exchange.
- Emerald operates nationally, receiving grain in the storage and handling systems managed by CBH, Graincorp, ABB, ABA, AWB Grainflow, AGS (Sunrice), and a number of individual 'private storage' sites.)
- In season 2007/08 approximately 50% (by volume) of the company's business is based in Western Australia, where Emerald maintains a staffed office. Emerald was the third largest (by volume) receiver of pool wheat in Western Australia in the 2007/08 season.

- Emerald has been granted an ESCOSA license for the bulk export of barley from South Australia.
- Emerald has established relationships with a range of Australian farmer organisations and commercial enterprises including a long term alliance with United Farmers Ravensdown (formally United Farmers Co-operative Company Ltd) a Western Australian farmers cooperative with approximately 3,500 members (recently merged with New Zealand farmers co-operative Ravensdown), a recently announced marketing alliance with WA Farmers Federation (more than 3,000 members) for the development and management of a WA Farmers branded wheat pool, a marketing joint venture in Victoria with Southern Quality Produce Co-operative (SQP Pty Ltd) – SQP Co-operative have approximately 200 farmer members, and a more recent joint venture announced with the grower owned unlisted public company FREE Eyre Ltd (EP Grains Pty Ltd). FREE Eyre Ltd have approximately 270 grower shareholders based on the Eyre Peninsula.

For further information please contact:

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