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PRODUCTIVITY COMMISSION

INQUIRY INTO WHEAT EXPORT MARKETING ARRANGEMENTS

DR W. CRAIK, Presiding Commissioner
MS A. MacRAE, Commissioner

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY ON FRIDAY, 11 DECEMBER 2009, AT 9.01 AM

Continued from 7/12/09 in Brisbane

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DR CRAIK: Good morning, and welcome to the hearings for our inquiry into wheat export marketing arrangements. My name is Wendy Craik and I'm the presiding commissioner on this inquiry and my fellow commissioner is Angela MacRae. I would like to introduce the staff, John Salerian and Catherine Costa from the Productivity Commission.

The inquiry started with a reference from the federal government on the wheat export marketing arrangements and basically it covers the operation and effectiveness of the act, Wheat Export Marketing Act, and the wheat export marketing arrangements. We've already talked to quite a range of organisations and individuals with interest in the issues and submissions have been coming in. We've got about 50 submissions and they're still coming in to the inquiry following our release of an issues paper in early October. We are very grateful to you for appearing today and for putting in submissions. The purpose of these hearings is to provide an opportunity for interested parties to discuss their submissions and their views on the public record.

Following this hearing - and we have been running some public forums as well, we have held them in every other state except South Australia and we will be going to South Australia next week. Then we will be working towards completing a draft report for public comment in mid-March and we will invite participation at another round of hearings after interested parties have had time to read the report. We like to conduct all hearings in a reasonably informal manner but I remind participants that a full transcript is being taken. For this reason comments from the floor cannot be taken but at the end of the day's proceedings I will provide an opportunity for anyone who wishes to make a brief presentation.

Now, participants are not required to take an oath but are required under the Productivity Commission Act to be truthful in their remarks. Participants are welcome to comment on the issues raised in other submissions. The transcript will be made available to participants and will be available from the commission's web site following the hearings. Copies may also be purchased using an order form available from staff here today and submissions are also available on the web site. If there are any media representatives in the room - and I don't think there are but there are some arriving about 9.30 - they will be taking vision but not audio of the proceedings. But if any media - no, there aren't any media here today.

So I would now - before I finish, just to remind you, toilets are out the door there, the exit is over there in case of any emergency, which I hope we don't have. So now I would like to welcome GrainCorp who is appearing before us today, and we have David Trebeck, Nigel Hart and David Ginns. So welcome, thank you. Would you like to make some - - -

MS MacRAE: For the recording it's easier if they introduce themselves, sorry.

DR CRAIK: Yes, can you introduce yourselves so that we've got you on the record? Thank you.

MR TREBECK (GC): Thank you, commissioner, and good morning. David Trebeck is my name. I'm a non-executive director of GrainCorp.

MR GINNS (GC): David Ginns, manager, corporate affairs and investor relations with GrainCorp.

MR HART (GC): Nigel Hart, general manager of ports.

MR TREBECK (GC): Commissioners, we have made a submission, as you know, and are happy to take questions on that. I thought it might be useful to just make an introductory statement and in doing so if I can start with an apology, as often happens, and that is on behalf of the managing director of GrainCorp, Mark Irwin, and the chairman, Don Taylor. Both were hoping to be here but as you may know GrainCorp has recently acquired an international malt business and both of them have been in North America and are still in North America in conjunction with the post-acquisition integration of that business. So they do ask to have their apologies extended to you. Both are, needless to say, very interested in the inquiry.

The export bulk wheat market has not been deregulated, contrary to a lot of views. It has really only been de-monopolised. It remains illegal to export bulk wheat without the consent of a "relevant authority" and that authority at the moment, of course, is Wheat Exports Australia. WEA actually has more control over exporters than its predecessor, the Wheat Export Authority, had over AWB International. The authority could seek information from AWBI and AWBI may or may not have responded to those requests. But essentially AWBI remained outside the authority and the Trade Practices Act.

The current regulatory regime, we think, is somewhat discretionary, not fully transparent and not predictable. As far as GrainCorp is concerned, it operates in a formal, black letter manner seeking extensive information that is often of questionable relevance, information that could sometimes readily be obtained from the ASX web site, for example, and always with the risk that GrainCorp's accreditation could be revoked. So it's certainly something you don't take lightly but it is the way it has chosen to operate. It is not clear to GrainCorp how this information has assisted either growers or overseas customers, that is, what benefits have been generated, and we look forward to the commission probing this with the WEA.

Certainly there has been a cost to GrainCorp, some 1000 pages of compliance material, around a million dollars of cash and in-kind costs and the possibility of substantial legal costs in any action under the ACCC undertaking. This is over and above the four to five million dollars to operate the WEA, which is recouped in part from a 22 cents per tonne charge. I note that the percentage value of that charge has gone up as wheat prices have declined. While it can be said, and I think one submission has said, that it's a tiny percentage of the price of wheat, that is true in the gross sense. But at a time when for most producers prices are below the cost of production it is a cost and a serious one. I also observed that much of the activities of WEA duplicate those of other regulators or pieces of legislation, although to be fair this is a criticism of the enabling legislation rather than WEA itself.

An important point to stress is that having conducted its audits and its analyses, the WEA provides no financial guarantees or warranties to exporter counter-parties or growers. Perhaps, and this is maybe another line of argument the commission might pursue, there is the appearance of financial security when in fact none exists. That certainly is the impression one gets from reading a number of the grower organisation submissions to the inquiry.

Relatively to the single desk era, now happily ended, the accreditation of multiple exporters has benefited growers in various ways. For example, there is now a more active and robust market for the purchase of wheat from growers with at least six accumulation teams operating nationally. Second, the artificial marketing deadline of late January when the AWB Number 1 Pool traditionally closed has been removed. Thirdly, growers are now better able to manage their wheat marketing, including the volatility that goes with it, as they do with non-wheat grains and other commodities. To suggest, as some have, that growers have been left high and dry by the removal of the single desk is, we think, to insult the intelligence of growers and their business acumen in a way that GrainCorp certainly rejects.

The GrainCorp submission seeks to address most of the questions posed in the commission's issues paper. We would be happy, if we can, to provide further information should the commission request it. Equally, we have not yet fully assessed submissions from other parties and may make a supplementary submission to respond to claims in those submissions. We are concerned, in general terms, that some parties do not appear to have fully grasped that a number of factors in the export grain supply chain have irrevocably changed while others have made loose assertions that do not withstand closer scrutiny. For example, in a recent exchange of correspondence between AWB and GrainCorp, which we propose to provide to the commission, an AWB staff member stated, and I quote, "We have an expectation around availability of rail to move grain from up-country to port at our discretion." Now, that comment may have been understandable in the past when rail supply was plentiful or, dare I say it, from a monopolist, but it is not the position now. Rail is a

scarce resource and GrainCorp has implemented a more systematic process of bidding for capacity on a first-come first-served basis that is transparent and known to all.

The supply chain task to port is a good deal more sophisticated than it once was, in part for reasons that have nothing to do with the end of the single desk per se. As examples of unsubstantiated assertions, I just mention four from four separate grower organisation submissions; first, a claim by the VFF that up-country storage providers do not compete and that various but unstated examples of poor practice have not been investigated by the ACCC or the PC. Second, a claim by AgForce that there are instances where delivery direct to port and not to up-country storage is being made more difficult by the bulk handler; third, according to The Land, yesterday's Land - because we haven't been able to sight the New South Wales Farmers Association submission on your web site yet - but the Land article said that New South Wales farmers claim that port monopolies and their apparent dysfunction could only be controlled by the countervailing power of the national pool manager. Fourthly, a claim by the Grain Growers Association that some new entrants have been frustrated by the service provided by the port operator with bulk handlers only guaranteeing minimum standards for grain out-turn when loading cargoes for third party grain marketers. Now, each of those claims we think are not sustained. We're happy to take questions on them today and certainly we will respond to those and others later to try and convince the commission of that fact.

Much of the discussion about transparency of market information is we think poorly based and indeed the risk would be that growers would actually lose some of the market power they currently have if mandatory disclosure of every piece of market information was required. Page 3 of the commission's issues paper emphasises, by using italics, that the present arrangements are a transition. Therefore, GrainCorp urges the commission to recommend (1) for the 2010-2011 year, replacement of the current accreditation scheme with a scheme more like the South Australian bulk barley licensing scheme; (2) full deregulation as from July 2011 by a repeat of section 9AAA of the Customs (Prohibited Exports) Act; (3) for the 2010-2011 year again, replacement of the ACCC access undertaking with a code of conduct and then from July 2011 a terminal access scheme analogous to that proposed by the National Competition Council; (4) general removal of regulatory and legal duplication consistent with government policy statements to this end and (5) the creation of an organisation to oversee a number of industry-good and self-regulatory functions, including a truth in description function for wheat-grade nomenclature.

I haven't covered all aspects of GrainCorp's submission here but my colleagues and I look forward to answering questions. Thank you.

DR CRAIK: Thanks very much, David, and thanks for the submission. I guess we would certainly appreciate a further submission responding to the statements made in other submissions about GrainCorp. That would be very helpful. We will probably ask you about some of those today but we probably won't get to cover them all today, so that would be helpful. The other thing that you mentioned you have is details - I know there's some information in your submission on your estimate of the costings of your responses to WEA, so some detail on that would also be useful because we certainly have to get the costs and benefits of WEA as one of our terms of reference, so we'd certainly appreciate that.

MR TREBECK (GC): Yes, I think on that point we've got diary notes of all requests received from WEA and so we could go into that in more detail with you. We're not complaining about a lot of it because we understand they have a job to do, but certainly there is a cost-benefit equation and if we can assist and shed some more light on that, we'd be happy to do so.

DR CRAIK: That would be helpful. The more facts we can bring to bear on this issue, the better it is for everybody and the more transparent it is for everybody.

MR TREBECK (GC): That would also include costs related to the access regime.

DR CRAIK: That would be useful too.

MR TREBECK (GC): Yes, because that's a necessary part of our - - -

DR CRAIK: That's right, the accreditation. Angela, do you want to start with some questions?

MS MacRAE: Maybe I'll just take up a small point with that. There was a point in your submission where you talked about a potential - I guess you've put aside - 500,000 for possible disputes under the publish-negotiate-arbitrate model. Would you expect that those costs might be the same if you were to have a voluntary code? Is there a difference to how that - so I guess I'm trying to work out the costs and benefits of the access undertaking versus the code that you might see replace it. Is that a net sort of cost to you from the access undertakings or would it be a similar sort of cost you put aside under a code?

MR HART (GC): Yes, I guess you've got to look at history in terms of the experience we've had in Victoria, as an example. We had a negotiate-arbitrate model and we didn't go through any arbitrations at that point but we believe that under this regime that we have today, given the multi-exporter market that we're in, there's probably a greater incentive to people to seek to use that system to try and I guess leverage that system to gain an advantage for themselves as against being able to

take us to arbitration to say, "Well, you're acting in a discriminatory manner."

MR GINNS (GC): There's two important points. There's our experience with access disputes but the publish-negotiate-arbitrate process is being used and will be used by exporters, not matters to do with access but it will be on matters to do with pricing. That is the process. I think at this stage we're probably looking at about half a dozen individual processes that will run concurrently that focus on pricing, not access, because there is no history of denying access and there will be no denying of access, so the process is focused on pricing.

MS MacRAE: Just to get back to the key part of my question, would a code of conduct sort of agreement, rather than having this formal undertaking, reduce the opportunities I guess to use maybe what you might see as the process being misused if it's being used more as an argument over pricing rather than access?

MR GINNS (GC): Correct, because we believe that the prices are reasonable and our experience in Victoria shows that they are reasonable and by any benchmarking activity, they're reasonable. The code of conduct dealt with the access issue, guaranteed people access, but the pricing was left as a direct commercial negotiation between two parties on a commercial basis. Unfortunately what we've got with the ACCC system is the ability for all of these exporters to drag us through the formal process of trying to deconstruct the prices.

DR CRAIK: Just so that I'm clear, under the Victorian arrangements, did you have much of a history of disputation?

MR GINNS (GC): Zero.

DR CRAIK: On pricing and access?

MR GINNS (GC): Correct, yes.

MR TREBECK (GC): I think, stepping a little bit above your question there, that there's a key point about access and a lot of people seem to get in a lather about this, but we have substantial port assets that are heavily under-utilised. They're under-utilised both because of seasonal conditions but also because of the growing domestic consumption of grain on the east coast for feedlots, flour mills et cetera. We are dead keen to improve the capacity utilisation of those port terminals however we can. It would be commercial suicide for us to deny any potential exporter the ability to put grain through our terminals.

DR CRAIK: What percentage of the east coast do you pass through your terminals, yours or others?

MR GINNS (GC): Roughly a third.

MR HART (GC): In terms of exports though, it's about 80 per cent.

MR GINNS (GC): No, of total crop.

MR HART (GC): Total crop, sorry.

MR GINNS (GC): So the average crop is around about 15 to 16 million tonnes; about five goes through out terminals, about one goes through the Melbourne Port terminal and of that five that goes through our terminals or elevators, last year we did 1.3.

DR CRAIK: Okay. Your capacity is what?

MR TREBECK (GC): About 15. So you've got about 10 million tonnes consumed domestically. A lot on-farm, of course, feed lots, flour mills, malt houses et cetera.

DR CRAIK: One of the big arguments that's raised, and it's raised in a number of the submissions - a big concern that's raised is that because you're a vertically-integrated company it's not an access issue but it's an information transfer issue: that because you have a bulk handler and you have up-country storage facilities that you have a really good idea of - the bulk-handling arm has a really good idea of how much wheat there is and what the market wants and then can pass that information to the trading arm, and that that gives GrainCorp an unfair advantage over other exporters. Now, we understand - and we're still to be provided with the details but we understand we're getting them from CBH that they've put in voluntary ring fencing in relation to that issue. But I guess I'd be interested in your comments on that issue, because it has been raised with us a number of times.

MR GINNS (GC): Who is going to address that one?

MR HART (GC): Okay, well, there's two points, I think, that need to be raised in relation to that question. Number one is that the history of the volume of GrainCorp trading and the profitability of GrainCorp trading essentially puts a lie to that claim that we are able to leverage the information, because the simple fact remains that whether you've got information or not the only way that you can purchase grain on any particular day is to have the best offer, so you've got to have the highest price on the day. So whilst theoretically you may have an advantage because you've got this information, that information means nothing unless you can attract the grain out of the system or indeed, if you actually want to attract the grain out of the system. To

attract the grain out of the system you've got to have the highest price on the day. At the back end you've also got to have the sales.

So that means the assumption that GrainCorp has greater capacity than any other exporter in the market to be able to make overseas sales - which is not correct - that GrainCorp has the financial capacity to buy more grain and to pay higher prices than any other exporter in anticipation of those sales or those actual sales being on the books. It also belies the fact that we've had domestically since 1989 the removal of compulsory acquisition a very competitive, down the eastern states, domestic market where there are multiple buyers. We have a seasonal industry that precludes anyone from monopolising the market. You just can't do it. There isn't the financial capacity or the will to be able to become a commercial monopolist.

MR TREBECK (GC): But are you finding that proposition is coming more from growers or from other exporters or from both?

DR CRAIK: Oh both.

MS MacRAE: Both.

DR CRAIK: Both.

MR HART (GC): I think the other points on there are also - we've actually had this issue explored by the ACCC through the various acquisitions that we have done over the last five or six years and I think on three or four occasions the ACCC have made substantive inquiries and analyses and, you know, they haven't found that we're in a position to use that information to our advantage. We don't know - you know, people shouldn't assume that grain is only traded once. In fact, through our storage system grain can actually be traded two or three times. It's a very active and dynamic market out there where it's - you know, it's traded from trader to trader two or three times. So again, you don't know what the position of the other trader is. We don't know who they've sold their grain to. We don't know what purchase values they've actually got. We don't know how much they've sold to the other players for.

So really, you don't have complete information about, you know, the position of our competitors in terms of how they've priced their grain, who they're selling to. The other factor is that from a market perspective customers who are buyers would typically - or consumers typically like to buy from a number of different traders in terms of that's how they manage their price risk and procurement programs. So to say that we - we do have information which relates to, effectively, the total stock position. But that information around, you know, sort of the total stocks that are available in the system and in the marketplace are pretty well much known to

everyone else as well. So I mean we publish, typically around October-November, what we believe our expected receivables are for the year. There's monthly statistics that are collected by the ABS and ABARE. There's plenty of independent forecasters out there that can tell you what crop production is. So we don't believe that we have an information advantage compared to other parties simply because people store in our network to advantage or trading systems.

MR GINNS (GC): It's also worth noting that our share of receivables is round about 50 to 60 per cent. There's a lot of grain that's stored on-farm. So you're really only looking at half the picture when you're talking about the GrainCorp network. The information that we hold, nominally - and for the benefit of the tape I put my fingers out, did inverted commas - the majority of that is information that is the property of other parties. If a grower or a trader or a domestic consumer like Manildra, for example, have grain in warehousing in our system, information about that grain is theirs, it's not GrainCorp's. Disclosing that information - we wouldn't be able to do that without permission of the owners of that grain.

DR CRAIK: But you could disclose it from one part of the company to another, couldn't you, without seeking permission?

MR GINNS (GC): Well, we don't - no, we don't necessarily disclose the ownership, because as Nigel said, we can have grain in our network and that can be sold and we won't necessarily know who that has been sold to until we get a request for out-to. There's also another - - -

DR CRAIK: I think the point that's made to us is that the trading arm could know the total quantities of different kinds of - different segregations of grain and quality of grain within your storage.

MS MacRAE: Most people aren't asking for that individual - they don't want to know who it belongs to.

DR CRAIK: No.

MS MacRAE: They're happy for that to be not disclosed.

MR GINNS (GC): So you're talking about half the crop.

DR CRAIK: Yes, that's right.

MR GINNS (GC): Okay, and where is the evidence that we're able to leverage the value out of that, theoretically, when the ACCC has examined this issue three times and found that we're not able to? They did it in 1996, they did it in 2002 and they

did it last year and they said, "Well, GrainCorp can't leverage the advantage out of that. It's just not possible."

MR TREBECK (GC): There's also another problem - - -

DR CRAIK: Well, we might follow that up too with the ACCC, I think.

MR TREBECK (GC): Yes. But I just add - - -

MS MacRAE: Can I just ask under what power they undertook those reviews? Was that at the request of another party? Sorry, I'm not very familiar with the - was it to do with the TPA or was it some other - - -

MR GINNS (GC): In 1996 it was to do with GrainCorp commencing trading. Prior to that the grain handling authority didn't trade. In 2002 it was related to the purchase of Milling Australia, which is now Allied Milling. Last year it related to the attempted takeover of Ridley Corporation.

DR CRAIK: Right.

MR GINNS (GC): There's one final point there where people continue to equate the market in Western Australia with the market on the east coast. It needs to be pointed out for the record that in Western Australia 90 plus per cent of - if we talk about wheat and other grains - is exported. In the eastern states we only ever get exports when the domestic market - which constitutes two-thirds of grain production occurring. So it's a little bit like comparing apples and watermelons.

MR TREBECK (GC): If I can just add my own experience both as a grower and as a GrainCorp director here, as a grower I've got grain to sell. I use a marketing adviser to give me advice on when and where and how, so that this week I have just sold a quantity of grain from one GrainCorp facility. I was actually disappointed that GrainCorp did not have the best price, as it happened, and somewhat ironically that was sold to CBH. I mean other things equal, as a shareholder apart from anything else, I'd be happy to sell my grain to GrainCorp but I do what's in the best interests of my farm and in that case it was a sale to CBH. I also store a fair bit of grain, less wheat but more barley, on-farm and we have traded that directly to other parties outside the GrainCorp system on occasions.

Coming to my role as a director of the company, I am of course keen that the trading arm is as active and takes as high a proportion of the crop as possible and I think the trading arm had quite a creditable first year in its opportunity to sell bulk wheat for export. But it certainly was well and truly outplayed - well, not outplayed perhaps but didn't have the highest share relative to some of the other exporters.

Whether that was because they had better abilities to negotiate freights or better financial backing or a different appetite to risk or different customer profile, I think all of those factors come into it and I think this is a factor which you can get out of public statements made by AWB but AWB in the new environment takes a completely different approach because of the risk aspect to what it used to be when most of the risk could be transferred back to growers through the pool.

So GrainCorp has a fairly comprehensive risk analysis part which determines how extensive its trading arm can be and so I think that's another factor that is part of the whole equation. So I do accept that the claim is easy to make but I think it's another one of the things that when you delve into it in more detail it's harder to sustain and if you've still got some uncertainties or concerns after this round of hearings, then we'd be happy to talk more about it to endeavour to explain how it operates in practice.

MS MacRAE: If you were forced to ring fence - just assuming for a moment you were - have you got any idea what that might cost you in terms of the benefits you get from that integration.

MR TREBECK (GC): Ring fencing meaning a Chinese wall for the - - -

MS MacRAE: A separation.

DR CRAIK: Yes, a Chinese wall between marketing and bulk handling.

MR TREBECK (GC): I think we would have to work that out - - -

MS MacRAE: I appreciate you might not have a number, it's just CBH gave us a number for how much they thought it was costing them.

MR TREBECK (GC): Can we take that on notice?

DR CRAIK: Yes, sure. It would be useful to get that information because some people have suggested that ring fencing would be a good idea for the bulk handlers that also have a marketing arm.

MR GINNS (GC): But once we're comparing CBH, which is a common - - -

MS MacRAE: Yes, I understand that.

MR GINNS (GC): - - - or notional stocks system where most of the logistics that are provided by CBH are through bundled services and as an exporter you are essentially buying notional stocks at port. We have an entirely different arrangement

where people have access to our port elevators to accumulate their grain through competitor systems or direct off farm and therefore our traders are not privy to the level of information that the Grain Pool traders are.

MS MacRAE: Right.

DR CRAIK: What about Viterra? How do you compare with Viterra?

MR GINNS (GC): Viterra do some bundled accumulation, but they're a bit of a hybrid between the two systems.

DR CRAIK: Okay. One of the criticisms we have of the whole deregulated market is that - and this was something that came quite a lot the other day - whereas wheat growers used to get the benefits of high prices, these days traders are the ones that actually take those and basically get the benefit of any arbitrage rather than the growers. Would you care to respond.

MR TREBECK (GC): I think the first point to make is that I hope people aren't suggesting that because we suddenly have a changed global supply-demand balance that that's all the result of the changes to the wheat marketing arrangements. Sadly for all of us, the prevailing world price for wheat is pretty sick at the moment. Again, I think the claim is easy to make but again, as has been said, on the day you have to offer the grower the best price if you are going to attract the grain into your ownership. So we've seen in this harvest - partly because of the low prices that have been on offer - most of the grain that's been delivered into our system and presumably other comparable systems has been warehoused; that is, growers have not taken the cash price available on the day from whoever is operating bidding cash prices. Why? Because they're unhappy with them.

I think that really we've just got to get beyond this notion that growers are poor, downtrodden, hopeless business people unable to work out what is in their best interests. They, or at least the vast majority of them, are well-informed, smart business people and they're probably making the right decision to warehouse their product and not take the cash price on the day. As soon as the prices started to kick up a bit, as they have over the last two weeks, there has been much more activity. Nigel probably, in his role, can talk a little bit more clearly. There have been some exporters who have had ships in the system waiting to get grain to load those ships to get them away and they have been a bit desperate because they haven't had the wheat available. What's the answer to that? Pay a higher price.

I'm not sure where CBH is placed but the price that CBH bid for this particular parcel of wheat I have just sold, reflected a transport cost from the silo to the port which was less than the notional transport cost posted by Grain Trade Australia. So

that suggests to me either that they had a particular urgency that they wanted some grain perhaps for a shipment or some other reason. It doesn't always go one way that growers lose. I mean, here is a case, for example, where I might have expected, let's say, \$35 a tonne to be deducted from the Port Kembla price back to the price of the silo for the transport and in this particular case it was, say, \$32 a tonne. So I got, if you like, a benefit of \$3 a tonne. Was I entitled to that? I say, yes, I was because that's what the price was on the day.

I think we do have a situation, and as Wendy knows, I've had a long association with dealing with growers, growers are often inclined to think that the best price ever is the right price and anything below that is a rip off to them by someone else. That's not the way of it in the real world and growers sometimes get a bit of a windfall and good luck to them and sometimes the market structures are less favourable to them. So hopefully this is an aspect that will come out of this inquiry and we can put some of the fairly well-known shibboleths to bed.

Then, as David is reminding me, we've just recently had the latest report from Wheat Exports Australia, the sort of thing that was previously done by the authority, and I don't think that has given much comfort to this argument.

MR HART (GC): The other point is that growers still haven't lost the capacity to participate in pools and pool operations are operated like a managed fund so if there are quality or transport arbitrage opportunities, a pool can potentially capture that for a grower for effectively a fixed fee. They certainly haven't lost the capacity as a group of growers to collectively operate as a co-op. There have been made grower co-ops across Australia. So if they believe that there is substantial margin or arbitrage opportunity on the table, they have the capacity either through managed pools or through their own co-ops to procure that. But the fact that you've actually seen a change in the market where pools are actually far less prevalent now than what they were before tends to suggest that there isn't that significant shift of value from the grower to the trader as they're suggesting.

MR GINNS (GC): You also have product innovation now that the national pool is not there. You've seen the CLEAR online network coming on board and we've got an arrangement where growers that have grain warehoused in the system can transfer that directly through to CLEAR and they can sell that. That gives them much more choice and the ability to take control of their marketing that they never had the opportunity to be able to do that before. You also have some innovative financial products such as the warehouse cash flow product that we've got that essentially allows the grower to notionally run his own pool, he gets an advance for the sale of his grain to the lender and he's then able to manage his pricing risk on the market and take advantage of fluctuations in the market. There's much more choice. Growers are no longer compelled to get into the number 1 pool by 20 January.

MS MacRAE: Just in relation to that diversity, one of the things you mention in your submission which I haven't heard or seen anywhere else, when you talked about containers, you also talked about individual vessel hatches.

MR GINNS (GC): Yes.

MS MacRAE: Is that where an individual grower could get basically part of a shipload? Is that how that works?

MR GINNS (GC): Each vessel is made up of a number of hatches, depending on the size of the vessel, and there are instances very regularly where a vessel may well be shared between exporters and one exporter might have two hatches and if it's a handymax size, another exporter may well have three.

MS MacRAE: Okay.

MR GINNS (GC): There are the abilities to be able to put multiple commodities on the one vessel.

MS MacRAE: You could have different segregations then in different parts of the vessel.

MR GINNS (GC): That's what happens with a lot of the work that we do, where a Cargill vessel may well have three different grades on it, for example.

MS MacRAE: Just one other thing because we've been talking about pricing, one paragraph in your submission I didn't follow, and we have had quite a lot of discussion about how prices are posted at silo and it's on your page 25. You say that there's criticism sometimes of having the lowest prices on offer at the company's own sites.

MR GINNS (GC): Correct.

MS MacRAE: Then when I read the next sentence, I just - if you could explain to me a bit more what that means.

GrainCorp does this to create an environment where competitors to GrainCorp Trading can compete more robustly for grain.

So how does that work?

MR GINNS (GC): Each of our receival sites is a marketplace. We encourage

people to offer prices and when we talk about posting silo prices, there is a little bit of a misnomer there. There's this old belief that people turn up in the Bedford truck and they look at a board that someone has chalked prices up on there and then make their marketing decision.

DR CRAIK: That's what a lot of them tell us, I must say, or they phone up and get a price and then they turn up at the silo and the price has changed, so they take the wheat home.

MR GINNS (GC): The research that we've done - and there's some results of that from the Solutions Group and we're looking at where growers get their pricing from and you look at the dynamics of how much grain is warehoused when it's delivered, at harvest time, that goes well over 90, 95 per cent, and that indicates that growers are concentrating at harvest time on harvesting. Grain is going into our system because they're not charged warehousing within the first month. It generally sits there for three or four weeks and then they make their marketing decision. We encourage people to post on our web site prices by site and by grain. What GrainCorp does to encourage other buyers to post prices at a particular site is that we will offer a price and that essentially makes the market at that site.

Now, if another buyers wants to go in and accumulate grain at site X, then they're going to have to go, "Well, there's the GrainCorp price of \$250, I'm going to have to offer 255," and then the next person has to offer 256 and so on. So we don't necessarily offer prices at our sites because we want to accumulate all of the grain there, we initially post prices there to create a market and attract other prices and other bids there. What we will do if we want to accumulate grain there, we will then offer a higher price.

DR CRAIK: Why would you want to create a market where you don't want to accumulate grain?

MR GINNS (GC): No, we want to accumulate grain at all of those sites but when I'm talking about "accumulate grain", I'm talking about accumulate for a customer. So there's a difference between grain coming into a site and being stored there or the accumulation of an export cargo or a parcel of grain for a domestic customer.

MS MacRAE: Accumulation for sale or storage.

MR GINNS (GC): Correct. There's different - - -

MS MacRAE: Basically that information then for the grower should be pretty much available on a web site or - - -

MR GINNS (GC): It's on the web site.

MS MacRAE: Okay. Often when we're talking to growers, they're looking at their mobile phones all the time. They get a message and they're looking at prices and stuff that's coming through to them.

MR GINNS (GC): That's exactly right, yes. They will be getting that from GrainCorp, they will be getting it from AWB, they will be getting it from Cargill, they will be getting it from Glencore et cetera. Often they are inundated with faxes, SMSs and emails.

MS MacRAE: In that instance then, the grower sees a price. They're sitting on their farm. They've got 200 K's to truck to the site. They can lock that price in at that time?

MR GINNS (GC): Yes.

MR HART (GC): They can contract. Sometimes during the day a buyer will want to withdraw a price as well and sometimes what they see - because a buyer might only have a capacity to buy, say, 1000 tonnes in particular instead of 5000 tonnes. They may have fulfilled the quantity they're looking for and then they pull out of the market. Historically there's been circumstances where the buyer has basically got a price there for the full day and they've bought 8000 tonnes, when they really only needed to buy five. So the market has actually had to adjust so that they basically - - -

MS MacRAE: But if the buyer was posting that price and you contracted and agreed that, there's no way then that when you arrive at the site - you could say, "Well, sorry, we've now got too much and we've agreed to something else," and you've contracted to - - -

MR HART (GC): If they have contracted, they deliver to the site under that contract.

MS MacRAE: Yes.

MR TREBECK (GC): With the proviso that when they get the truck to the site, the quality is as they thought it would be. I mean, each individual truckload has to be sampled and tested for quality and sometimes you're on the borderline between - - -

DR CRAIK: That's the other issue that was raised with us, that people have their wheat tested for quality or test their own wheat and then when they turn up, the receiving entity indicates that the wheat is of - - -

MR GINNS (GC): That the test results are different, yes.

DR CRAIK: - - - significantly lower quality and even cases where they have delivered the same parcels of the same wheat to two different buyers, I suppose, and one was acceptable at the quality offered but the other one wasn't, even though it came under the same package.

MR GINNS (GC): Two observations there: there can often be in a single paddock wide variations in grade quality, and the second observation is that whenever you have a question or a factor like that arising, the first question is: when was the last time you had your machines properly calibrated? People have the mistaken belief that a FOSS NIR machine, for example, if you set it up on the back verandah or down in the shed, that it will sit there and will be accurate all the time. That's not the case. Those machines have to be regularly calibrated back to a sample of known quality and because we're a professional supplier of these services, we are regulated under the appropriate standards and measures regulations in each of the states in which we operate and all of our machines are regularly calibrated back to a standard sample of a known quantity. If you are using moisture meters, NIR machines or whatever and you're not calibrating them, they will be inaccurate.

MS MacRAE: What happens in the case of a dispute like that then? What are the mechanisms? Say that there was a dispute at the point of receipt, what mechanisms are available there if someone felt, "Look, you can tell me that but I still think my machine at home is right"? It's just general contractual law, the general sort of - - -

MR GINNS (GC): The first step there really is to take a reference sample and it can go back to one of our labs where more elaborate machinery and more testing can take place, or if the individual who is in dispute believes that that's not satisfactory, a reference sample can be taken off to a separate independent party like BRI here in Sydney or Agrifood down at Werribee and they will perform the tests as an independent supplier of those tests.

DR CRAIK: Does that happen very often?

MR GINNS (GC): It's not huge. Very rarely. On site, typically what happens if the first result they don't agree with, we actually retest the truck, resample. You can do that up to three times just to ensure there's no anomalies around where the sample has been taken from, so you mix it up. We haven't found a significant variance in our results. We do find circumstances where grain is accepted at other businesses because they may want to - obviously they're there to attract grain. They may accept grain which may not have met the specification but they may commingle into a stack because they've got a buffer there that they commingle, so they've accepted it below

the specification standard but still graded it as that specification for their own purposes. But it's up to those individual storers as to how they manage their own stacks in that regard, so you do see that as anomaly which is not a function of a fault of the actual testing equipment, the testing regime, it's really a commercial decision that a storage provider will make around what grain they will accept and what risks they will accept around what they accumulate into a stack.

DR CRAIK: Okay. One of the issues that's raised in a number of submissions with us is that farmers have difficulty delivering grain straight from the farm to the port and that bulk handlers have a policy of discouraging, I suppose, or giving priority to non direct from farm to port shipments, and then that the charges that are applied are differential, and if you come straight from the farm to the port the charge is higher than if you go through the bulk handlers' up-country storage, which seems curious, that for instance you might pay \$13 a tonne intake cost and up-country storage of \$19.50 straight from a farm to the port. That was the numbers that were quoted in a submission. Can you explain or respond to that?

MR HART (GC): There's a couple of aspects. One is the pricing, but also it's the mechanism around port scheduling. I think people need to understand that to operate a port efficiently we have a shipping standard which has a shipping order. The reality is there's limited storage capacity on site, so you really need to accumulate and manage that program in accord with the order of vessels.

Historically, what we have seen in that there's a tendency of people who want to deliver directly to port to want to deliver for vessels number 7 and 8, whereas we don't have the capacity to be accumulating for vessels 7 and 8, we have the capacity to deal with vessels number you know, 1 to 4 or 5. So there's a timing issue around port efficiency, which is pretty critical. As an example, the Fisherman Island last year at the beginning of the season when we were receiving a lot of road deliveries, and perhaps rail, there were about five or six different grades turning up on the one day, which was for vessels 1 to 5 and 6. Fisherman Island only has 60,000 tonnes of effective storage capacity. So our daily intake efficiency was 2600 tonnes a day.

We moved to a system where we were more stringent in saying, "The grain will only come in the basis of when it's actually called in," to meet that vessel accumulation time. So we're able to achieve road intake rates up to 7500 tonnes a day. So as you can see, there's actually a much more efficient supply chain operating when you can do something at 7500 tonnes a day rather than 2600 tonnes a day. So that's the first example of you can't just have a system where when people feel as though they want to deliver, because they have got their truck in the paddock or they have got contractors to contract, they can just turn up to a port facility and expect to be unloaded. The system can't work like that, it creates significant - - -

DR CRAIK: So basically it's sort of a charge to rationalise the deliveries - - -

MR GINNS (GC): It also comes out of the purpose of the infrastructure. The purpose of port terminal or an elevator is to elevate grade of a known quality onto a vessel, and that's why you have the supply chain that feeds into that, as Nigel was describing. If you have grain coming from a whole range of sources of unknown quality in an unplanned manner, you're using that infrastructure in a manner that it's not designed or built to do; it doesn't work.

MR HART (GC): On the pricing side, differential prices are there for a very specific around how we manage the risk. We actually do segregate them. Particularly with chemical residues, we have numerous examples of growers who'll treat their grain with fenitrothion, which is a product which they won't accept into Japan and other places. So once you actually start segregating, because of the different sources of grain, you start to lose export efficiency and export capacity; whereas, you know, through our supply chain we commingle for all customers on a grade basis.

So there's the loss of efficiency, there's the risk inherent with receiving grain which may not have been subjected to the same quality regime that we provide in our system, we have an ISO-accredited system, whereas many farm systems don't have that part of the process. There's insect risks as well, which is significant, particularly when we receive a lot of ex-farm grain, it does come during that January, February, March period. Insects are a fact of life. In Australia they are very prevalent. So again it's about managing those risks as well. So that's why we charge a differentiation for that service, because there's inherent risk in it, there's real costs associated with it, to the business. So it's not as a means of discrimination, it's reflecting the risk and the cost of doing that through that pathway.

MR TREBECK (GC): So these are sort of general comments, but you quoted a couple of specific figures there. So again if we understand the context of them, we can respond specifically to that one.

DR CRAIK: Okay. That was in one of the submissions. One of the other comments in one of the submissions was that bulk handlers limit their liability. So only \$500,000 for grain loaded onto a ship - relative to the potential value of a ship-load of grain, that's a very small amount - and only \$10,000 for onto rail. I guess the comment is that that seems very low relative to the value, the potential value, of the cargo.

MR GINNS (GC): We think those liability limits are reasonable, from the commercial perspective. However, it would be understandable that another party would seek to shift some of their liability onto someone else; I mean, that's what

commercial organisations seek to do.

DR CRAIK: So even if it turned out to be a problem of the bulk handler, I guess the shipper of the grain or the owner of the grain would see that that's a - - -

MR GINNS (GC): Was any empirical evidence presented in that submission to support the rationale of the need?

DR CRAIK: No, I think it was just feeling that the risk was one-sided.

MR GINNS (GC): Right.

MR HART (GC): If it's gross negligence on our behalf, I think whilst we may have a limitation - you know, that would obviously go to a court of law. But I think you've actually got to look at the evidence in terms of historically, you know, have people made multiple claims against the business. We exported 5 million tonnes last year, and had next to no claims, or very minimal claims; I think it was only one claim for an incident at Fisherman Island, which was a rat on a vessel, or something like that, which is not the find of the century, but we don't believe that it's a significant issue, from our perspective, and we do everything that we can to ensure that prior to that grain going on board it's fully tested in turn, but it's tested whilst it's in store and it's tested as it's going out on the vessel.

MR GINNS (GC): It's also worthwhile; if you look at the actual contracts between ourselves and these parties, a lot essentially make good allowances there as well.

MS MacRAE: Could I just ask just one other question, because it relates to what we were just talking about. In relation to that kind of what happens at port and you get there with your truck and then you've got to wait, you know, those things, and the different cross. Some might argue that when there was just a single stack and someone knew what was coming in and how big that was going to be and getting it to port and all those things was easier because you had control of the whole amount and that problem of kind of rush to port and all those things would have been handled in a way that would have made the net costs lower under a single stack than under a deregulated system. I just wonder if you'd like to respond on that.

MR TREBECK (GC): Quite possibly. But I think you've got to also see what was the value of that single stack too. I mean, part of the evolution of the wheat industry in Australia since the days in the 60s when we used to sell a grade of wheat called FAQ, fair average quality - I mean, what an awful signal to send to the world marketplace - we now have a much more deeply segregated market where we as a country are trying to extract more value from the grain, and that's why you have these different segregations. So yes, if you put every grain produced into one

massive stack you probably would get economies of scale and lower cost there, but at a cost of much lower value. So it's ultimately an overall economic equation.

MR GINNS (GC): So that's the ultimate level of commoditisation where everything is the same, and economics would tell us that if you do that then you have the absolute lowest value. So you may have high efficiencies, but very, very low value for that product on the marketplace, and that is entirely counted at what customers are telling us, where they want more sophistication of the product, they want more segregations and more specialisation, and it is getting - - -

MR TREBECK (GC): Including traceability, that is another part of this. I mean, when you put everything in together you just lose that capacity to trace back. So I think to me this is where the export grain market is in still a position of transition, and some of the specifications by our customers for what they want, the quality specifications, are somewhat different to the sorts of specifications that growers see in terms of the grades that they deliver to. Now, I suspect over time there will be a convergence of that where some of the - and I think it will be a good thing because we will be driving more of the customer specifications back to the growers and they will then see that more clearly: who, what customer, what requirements, what is important, what are the quality premiums and discounts that are available. We're a lot better now than we were 30 years ago when the FAQ was the standard, but I don't think we've completed the full evolution yet. I think too - - -

MR GINNS (GC): Is it worth - - -

MR TREBECK (GC): Sorry, David.

MR GINNS (GC): Sorry.

MR TREBECK (GC): I think that is one aspect where the end of the single desk has been a good thing because - and I make this without a critical comment of AWB. I think AWB in many ways did a good job in the past environment but it did not capture every customer that were out there to be captured. It probably did not achieve every bit of value that was there to be captured. When you have more people sort of contesting for product than in touch with the ultimate customer so - I mean to me it's self-evident that you're going to get the potential to generate more value from the grain we produce and transfer that back to - ultimately to the producers with obviously some share being taken by the market service providers along the way.

MR GINNS (GC): Is it worthwhile raising - sorry, if I - just might ask my colleagues. The direct ex-farm accumulation and chemical residue problems that we had in January-February at Carrington is probably a worthwhile example to raise,

both market-specified specification and direct ex-farm accumulation. We had a case - - -

MR TREBECK (GC): Please be brief.

MR GINNS (GC): I will be very brief. We had a case of the accumulation direct ex-farm of a couple of cargoes in January and February this year for the European market. Now, the European market has changed their MRLs for deltamethrin and - no, is it fenitrothion and one other chemical. So it's gone from .1 to .01, which is effectively pesticide residue-free. We had quite a number of truckloads for these 20-odd thousand tonne cargo accumulations coming direct off where they had been treated with phosphate, because the grain had been stored on-farm for several months. We had instances where phosphine was being found at 700, 900 parts per million, which are hazardous and illegal levels. We had trucks being fumigated en route, which is illegal under the appropriate legislation in New South Wales. So we do have a lot of practices that refer to that matter of risk that Nigel was talking about that also go directly through to market access issues and potentially imperilling those. So it is a very complex chain.

DR CRAIK: So what do you do in a case like that?

MR GINNS (GC): Beg yours?

DR CRAIK: What do you do in a case like that?

MR GINNS (GC): Well, we had to reject truckloads. So there was a huge risk and cost transfer back to growers where you've got individual truckloads coming out of the north-west of New South Wales down to Carrington at Newcastle only to be rejected because they've got 150 parts per million of phosphate.

DR CRAIK: Presumably AWB would have had to do the same thing?

MR HART (GC): I think the fundamental change that we've seen in the market gets back to - we talk about the efficiency of the supply chain. What has impacted on the efficiency of the supply chain more than anything is the availability of rail capability across the east coast. So in this last 12 months we've probably seen, you know, successive droughts, rail capacity was withdrawn from major providers because they didn't want to wear or carry the cost of having that infrastructure and all those employees there and making losses on it. So, you know, they've moved to take or pay arrangements. Commercial companies will only take up, like ours, a certain extent of take or pay capacity. You can't take up the total capacity that's there. So whereas we had, you know, probably 40 train sets across the east coast five years ago now we have probably between 12 and 15. So there has been a significant shift in

terms of that capability of getting the crop to port. It has created more complexity. It has created those circumstances where we have had a lot more in terms of road delivery.

DR CRAIK: Do you see that - I mean we're running out of time but do you see more increasingly - increasing percentage of deliveries by road into the future because of the rail situation?

MR GINNS (GC): We've managed to increase the efficiency of the trains in New South Wales in particular from about 150,000 tonnes a year to about 250. We hope to get them up to about 300,000. So that's essentially a doubling of productivity. There were a lot of doomsayers at the beginning of last year that there's not going to be enough transport to get grain to port but hey, presto, we moved - elevated 5.2 million tonnes in the past year, which was about average; so the system is working.

DR CRAIK: Okay.

MR GINNS (GC): You will hear a lot of claims that the system is broken and it's not working. There's no evidence of that.

DR CRAIK: Okay. Well, thank you very much for all your comments and your submissions. If you could respond to the - David, you mentioned them in your opening remarks, the unsubstantiated comments.

MR TREBECK (GC): Yes.

DR CRAIK: That's why we didn't ask for them today because if you're going to respond to those and in the other submissions any comments there about GrainCorp we would certainly appreciate.

MR TREBECK (GC): And the two or three specific things that you've raised.

DR CRAIK: That's right, yes, that would be extremely useful, I think, for us.

MR TREBECK (GC): I take it that at some stage you will actually go to a port terminal and observe its operations?

DR CRAIK: Well, in fact there have been a couple of visits already to a port terminal. We're also going to another one in Adelaide next week, I think.

MS MacRAE: Yes.

DR CRAIK: But you've been to Geraldton and to Kwinana. So we need to - - -

MR TREBECK (GC): Fine, thank you. Thank you very much.

DR CRAIK: But thank you.

MS MacRAE: Yes.

DR CRAIK: Thanks very much for appearing, yes. Thanks very much, David; thanks, David; thanks Nigel.

DR CRAIK: Thanks very much, Peter, for coming along today. You're our second cab off the rank this morning. So would you like to start with a few - well, firstly, identify yourself for the record.

MR FLOTTMANN (GGA): Sure.

DR CRAIK: Then if you have a few introductory remarks that you'd like to make, feel free, and then we'll ask you some questions.

MR FLOTTMANN (GGA): Sure, I'll be very brief.

DR CRAIK: Thanks very much.

MR FLOTTMANN (GGA): Peter Flottmann, chief executive officer of Grain Growers Association Ltd. Wendy, I guess our comments are - fairly brief opening remarks, but we'll certainly make the same comment that most other grower groups have that I think the timing of the Productivity Commission has made it rather difficult for producers to have any significant degree of input into a response, and that's probably reflected in the way we actually have responded to date. So we certainly make those remarks.

I guess declaring our interest in the efforts of the Productivity Commission, GGA is a company in a fair degree of transition itself. That is partly as a result of the changes we've seen in the industry but we're unashamedly, and I think that's reflected in our submission, looking to establish an independent services company within the grains industry, largely in response to some of the changes. From the responses we have had and certainly our overall company view it's perhaps premature to make a definitive call on what has or hasn't worked in respect of deregulation but primarily the market is still functioning. I think the other point that probably should be made that a lot of issues that had been raised either prior to this commission hearing or during it undoubtedly in respect to logistics to freight - rail freight is an interesting one, particularly in New South Wales. A lot of these issues were already in play well and truly before deregulation occurred. The reality is deregulation has simply exposed those issues. Now, whether that's a good thing or a bad thing I guess is something for the industry to determine, but it has given the industry an opportunity to reassess how it can move forward in an efficient and an effective manner. I think we still have quite some way to go to work out just where that lands. So that's really my comments, Wendy.

DR CRAIK: Okay. Thanks very much, Peter. In your submission you suggest that some growers have drawn their attention to the fact that they have not had satisfactory commercial dealings with some of the accredited players. Is there

anything on record that can be brought to the inquiry because it's very difficult for us when we get comments like to do anything with it unless we have a - - -

MR FLOTTMANN (GGA): They're purely anecdotal comments and again, they're not untypical of producers, particularly in a harvest situation. Harvest provides the greatest level of stress for producers than any other time of the year. Purely anecdotal comments and again, not untypical of some of the comments you would have heard with the deregulation of the domestic grains industry in 1989 as well. I think it is more reflective of a settling-in period but we have no specific empirical evidence to provide you that suggested there was any improper conduct. We have made reference to, I guess, occasions where producers were seeking to warehouse their grain and they weren't fully informed in respect of the terms and conditions that were applied to warehousing and receipt.

A lot of what we're commenting on there, I think, reflects an issue surrounding information and whether producers are fully informed. That's not to say the information is not available, it's whether they've made the effort to secure that information themselves to ensure that they are informed.

DR CRAIK: Do you think that these things are more transitional issues or do you think they're system problems?

MR FLOTTMANN (GGA): I think they're transitional. I think they're reflective again of a marketing system. When you consider we've had a heavily regulated market for over 60 years in all facets of the supply chain and when you unwind that inevitably, there are going to be some resettling issues to deal with. So I don't think it's systemic, but I do think there is perhaps an issue in some respects with producer attitude to information. We've got to ensure that producers don't develop a victim culture about this, in other words, sheet the blame home to somebody else because we don't think we need to find the information. Under a monopoly regime, it was a very passive process and so the need to be informed was significantly less than what you need in a deregulated market, that is very clear. Growers who have adapted more quickly are the ones who are very cognisant of that and are actively seeking that information and how to respond to it.

DR CRAIK: Does Grain Growers have a view about how removal of the single desk has gone, whether deregulation has gone well or poorly?

MR FLOTTMANN (GGA): I think relative to where the industry landed in respect of deregulation overall I think it has performed reasonably well. If you look at the efficacy of logistics and the like, clearly there were a few issues last year. We believe the market will, through commercial means, actually sort those out. Again, an area focused for us in respect of industry services where there has been some

concerns and the like is industry's preparedness on a precompetitive basis to deal with how we actually support, promote and develop the industry which I might say was a heavily criticised issue pre-deregulation anyway which is perhaps another way of saying that we clearly had, leading up to deregulation, significant divisions and broad spectrums of views, very divergent views particularly in the producing community which made it difficult to get resolution on those types of issues pre-deregulation.

So we're probably behind the eight ball a little bit in respect of how we resolve things around industry support and promotion and in a broader sense, which goes beyond purely the wheat industry, producer representation, how to develop more effective models for the industry.

DR CRAIK: Moving on a bit, one of the issues you talk about in terms of port access is - I guess it's not such an access issue as an information issue, information asymmetry but the suggestion in your submission that you would think it preferable or we should consider the possibility of ring fencing the bulk handling arms from the trading arms of those companies because of the potential for information transfer.

MR FLOTTMANN (GGA): I think we also acknowledge the practical difficulties in executing something like that. It certainly pertains more broadly to provision of broader aggregated data to allow the market to make effective decisions and I think ultimately the question around ring fencing has a little bit more to do with where we see the industry transiting to in respect of a competitive base either on an up-country basis or a port. We certainly muse on some hypotheticals in terms of what might be required but I think the commercial reality is that it would have been an extremely difficult thing to execute.

DR CRAIK: In terms of port access, are you in favour of the undertakings being maintained even beyond 2011 in relation to access or do you think the Trade Practices Act could, with perhaps a voluntary code of conduct - I suppose it wouldn't be voluntary if people said it ought to be there - but some kind of code of conduct and then the Trade Practices Act.

MR FLOTTMANN (GGA): Industry self-regulation process?

DR CRAIK: Yes.

MR FLOTTMANN (GGA): We're actually a signatory to the Grain Industry Code of Conduct that's recently been released so I guess that's part of the answer. I think we also reference in our submission that ultimately we believe the ACCC has adequate powers under the current regime to effectively monitor it. A lot of this ultimately gets down to compliance costs and where those costs ultimately get

sheeted home and ultimately they will always find their way back down the supply chain to producers. In the same way the regulatory structure we have in place at the moment is an interesting balance because at one level you get arguments that it's overkill. You can also argue it exposes itself to commercial arbitrage or legislative arbitrage between bulk exports and the container market. So it's a piece of legislation that doesn't fully satisfy the requirements of the industry if the intention is to actually have a probative process built through statutory means.

So inevitably it has some flaws in it that are going to be challenged by the marketplace and the effective costs of running the current process we think are prohibitive.

DR CRAIK: Ultimately, the grower ends up paying those.

MR FLOTTMANN (GGA): Yes, and again the point needs to be made that occurs under any system - I have made reference to costs previously. An example would be the cost of servicing overseas markets under AWB's marketing system which was estimated anywhere up to \$20 million per annum. That's still a cost to producers. The difference is you don't see it so easily because it's amortised across national pool costs, so it's once again an averaging effect but the costs are still there. The fact that those costs are now becoming more visible I think is actually a good thing for the industry and it's challenging the industry to understand what it does or doesn't want to have in place. The same applies ultimately to competitive pricing or otherwise in respect of storage, elevation and FOBing, transport and the like. The more visible a cost becomes the easier it is to determine what is ultimately going to be a competitive point of difference in the market.

DR CRAIK: I guess some of the cross-subsidisation is being unwound a bit more, becoming more evident, I suppose.

MR FLOTTMANN (GGA): It is and it's challenging the industry to work out what is and isn't required, what is and isn't efficient and how to respond to making sure those costs are as low as they possibly can be.

DR CRAIK: Okay.

MS MacRAE: I will just go back to a couple of issues we have talked about. Just in relation to the current process for WEA, I understand what you're saying that maybe there is not an ongoing thing but you make some comments in your submission about the transparency of that process. In your role, has that been a frustration to you, that you feel that you don't really know what's involved and what process - - -

MR FLOTTMANN (GGA): In the WEA process?

MS MacRAE: Yes, what the WEA does.

MR FLOTTMANN (GGA): No, we're confident we know what WEA does. I guess the issue relates more to broader base market information and transparency of market information.

MS MacRAE: Okay. Just in relation then to that information, looking at your submission you have given us examples from the US and we're aware that they do a lot more market information and provision than we do. Do you see that as something that growers would be prepared to pay for or would it be something that the industry would do and I guess ultimately, what would you do with all that information? Given the extent of what's here, it seems very broad ranging and probably more than we'd have in any of our other grain markets. So why do you think we need that level of information? Who would pay for it and I guess the realities of how to collect some of this on farm storage, for example, the difficulties of doing that.

MR FLOTTMANN (GGA): That is a particular difficult one. I don't think it's unachievable but it is difficult. Ultimately, the purpose of trying to aggregate information is to allow the market to make an informed decision. That's inclusive of producers through to the trade. Traders will develop their own supply-demand analyses as should producers but I suspect a lot of them don't. But ultimately it's to help the market perform efficiently. That's not to suggest that you're trying to commercially coerce it to behave one way or the other, but it's simply allowing enough openness in the marketplace to operate effectively.

The depth to which that information is required is a moot point. You're right, USDA does provide a significant amount of data on a scale that - that marketplace is significantly larger than in Australia. By implication, that means probably the depth that we're looking for is less. You could argue that some of that information compulsion is possibly a transitional thing as well and maybe also a perception, particularly from the producers' perspective, to assist with that transition process. We have argued that we think there is a case for some degree of compulsion; there already is in place with ABS, through Wheat Exports Australia, to compulsorily acquire data. The issue there is the timeliness of that data, how it's actually put to the marketplace and what interpretation the market can actually put on it. So there are mechanisms already there but we doubt the efficacy of those current arrangements.

MS MacRAE: Do you think there's ever a risk of having too much information? I mean, our previous speakers said be careful what you wish for - - -

MR FLOTTMANN (GGA): Yes, because you will get it.

MS MacRAE: - - - that in making things very transparent, you're making them also very transparent to your potential buyers.

MR FLOTTMANN (GGA): Again it depends on the depth that you're actually going to. I guess we'd argue that consumers should have a right to understand the product they're actually trying to acquire and consumers should have a significant influence on shaping the products they want to buy in the first place. That process through a regulated system was mastered very effectively and with great respect to the AWB, I think in the closing stages when they still held a monopoly, they treated customers quite paternalistically overseas and in turn found it very difficult to transfer those signals through the R and D corporations, through to producers, through to research outcomes.

"Contestable marketplace" theoretically should imply that you have the opportunity to shorten that knowledge gap and create a different relationship between consumer and producer. It doesn't mean that you still don't require an exporter and trader to manage risk, to execute, to trade the product. I think we have an opportunity to engage differently with markets overseas than we've had before. Yes, there's certainly no shortage of information out there; I think the challenge for us is how we sort out what's the right level and what's the right type of information to shape the market behaviours we think are actually going to stay in the industry.

DR CRAIK: Do you think the government should pay for any of this?

MR FLOTTMANN (GGA): I think we always welcome government support if you'd like to throw it our way.

DR CRAIK: I don't know a farmer that doesn't.

MR FLOTTMANN (GGA): Look, I think the overarching view for the industry is that self-regulation is an appropriate way forward. To your question earlier, Angela, about who pays and what sort of willingness to pay, when it comes to the types of services we've been discussing, overseas promotion, technical support and the like, a lot of the commercial traders do provide that to a level in their own right anyway and that's a cost of doing business. There's a recognition that there's a requirement for that on a broader basis as well and it's a developing view but it's not one yet where people have put their hands in their pocket to pay for it.

Again, one of the legacies of a monopoly system is that nobody appears to have ever paid for that in the past, when in reality they have, but certainly consumers overseas have never had to pay for that sort of information. BRI, for example, which is a wholly-owned subsidiary of GGA, is now producing a national crop quality

report and it's doing so under funding from GRDC and GGA at arm's length. The test for us is whether that product can actually be commercialised to a point where it's financially sustainable longer term; in other words, whether the data is important enough to the marketplace to actually pay for.

DR CRAIK: Is that looking likely?

MR FLOTTMANN (GGA): We'll know in about the next six months or so.

DR CRAIK: So are you looking for exporters to front up to pay for that or are you looking for - - -

MR FLOTTMANN (GGA): Exports and consumers and bulk handlers. This is something which is an industry-good function, if you will, and there's obviously a cost-recovery requirement to continue to produce that sort of information. But it's arguably a pre-competitive piece of information at an aggregate level which arguably industry should support. Right now, I think we're in that period where the marketplace is still trying to sort itself out, getting a relative balance of market shares and the like, understanding what's competitive and what should be pre-competitive. But there is an emerging view that those types of services are ones that the industry should support and more importantly should support on an across-industry basis. In other words, it shouldn't all be sheeting home the cost to producers. So I think it will actually transit over a period of time and it would be great to get government support to help that along the way. But fundamentally I think initially self-regulation around those processes is going to be far more effective because it drives commercial relevance rather than a dependency on the statutory obligation.

MS MacRAE: You nominate four particular powers, and they kind of surprised me in that I wouldn't have thought they would be the four that you would necessarily nominate. I'm looking at page 5 of your submission. So you talk about export trade information being important, the national stocks and selling data being important, and that didn't surprise me.

Grain quality reports for all grain in all receival points to ensure that the industry is not only informed of the volume but also the available quality of the crop in any given location.

Is that really saying you don't have faith in the receival standards or you don't know what's being delivered - is it quality or is it segregation?

MR FLOTTMANN (GGA): It's the depth of quality data. That's probably more the issue.

MS MacRAE: Okay.

MR FLOTTMANN (GGA): So receival tests will give you baseline information and allow you to put it through the drafting and go through a specific classification but it won't give you performance data. The one thing, particularly human consumption customers, need when they're buying wheat is to understand the variabilities or otherwise, the seasonal variabilities, the changes year to year in the product they're buying and it allows them to measure formulations as to the way they're going to set things up far more effectively. So it primarily relates to the depth and breadth of quality data.

MS MacRAE: I guess in that instance if you were signalling to the buyers - or the buyers had the information that the particular quality that they were seeking, right down to those performance standards, where it was and how much was currently available in Australia, that's very valuable information to the buyers. That's the case, I guess, where I'd be thinking is that really in the growers' best interests to be giving out that level of information? I can see it makes it easy for the buyer but it also gives them a very good idea about what might be a reasonable price and whether they will hang out a bit and that sort of stuff.

MR FLOTTMANN (GGA): Yes, sure. I don't think you'd be suggesting that you'd provide that on a receival basis to an individual customer.

DR CRAIK: So you're suggesting that all these things be legislated, enshrined with the minister?

MR FLOTTMANN (GGA): There's a suggestion that in terms of - there's a couple of pathways I guess we can take and we're not proposing one way or the other, but one is certainly trying to get a level of industry self-regulation. The compulsion for acquisition of baseline information we think is probably appropriate through legislation, at least on an interim basis.

MS MacRAE: It's just that going to the level of detail at all receival points, getting this information on quality, kind of legislating that, saying that the level of detail you want, just seems potentially risky, I thought.

DR CRAIK: A major exercise if - - -

MS MacRAE: Yes, and costly, so you would want to be sure you were going to get good value from it.

DR CRAIK: That's right, yes.

MS MacRAE: Then the final point was investigative powers and I guess I just asked there whether you felt that the existing sort of contractual legal obligations between buyers and traders, whether that wouldn't be sufficient, so do you see - is there something specific or different about the wheat trade that means that there's an extra layer of regulation that would be required to try and make sure you don't get a rogue trader in that industry?

MR FLOTTMANN (GGA): Yes, I think we've argued elsewhere that the current system through GTA and ACCC is arguably sufficient for that purpose.

MS MacRAE: Okay.

DR CRAIK: Moving on to wheat classification, you say you've previously called for a complete review of wheat standards and you're doing another study on what the world wants from Australian wheat. When are you likely to have that finished?

MR FLOTTMANN (GGA): We're still trying to finalise the budget at the moment actually. It's a little bit dependent on getting execution of the contract. Originally we had hoped it would be available in March-April next year but it's been pushed out about six months, so it's going to be later in 2010.

DR CRAIK: Okay. So is the previous report available?

MR FLOTTMANN (GGA): It is. It's available on our web site.

DR CRAIK: Is it? Okay.

MR FLOTTMANN (GGA): One of the co-authors is in the room here at the moment.

DR CRAIK: So we should have a look at that one.

MR FLOTTMANN (GGA): Yes. Again I think it's one of those functions or services to the industry and we think it is important that that type of work is refreshed on a fairly regular basis which is giving you consumer trends and analysis overseas to allow us to be able to respond effectively to how we shape our crop here and how we export it.

MS MacRAE: Can I just be clear then, what's the sort of bottom line ultimate sort of aim of that review? Is it saying are the - am I understanding it correctly to say - are the current sort of standards that we've got, are they sufficient to meet the changes in the demand side that we're seeing and do we need to change our standards in a way? Is that the sort of focus of it?

MR FLOTTMANN (GGA): Well, it's arguably more refreshing to say are the baseline - the receival standards we have adequate for us to be able to respond to what we think consumer trends are likely to be and where are those standards likely to go to?

MS MacRAE: Right, okay.

MR FLOTTMANN (GGA): Yes. As an example we're seeing in some areas of North America a trend to more functional-type specifications rather than grade classifications we have here now.

MS MacRAE: Okay.

MR FLOTTMANN (GGA): So it's more a market-driven response to say we have an existing process which is, in my view, well-managed by the industry but it certainly is appropriate to have external market views put back - overlaid over the top of that to see whether we're actually still able to respond to what is likely to occur.

MS MacRAE: I mean I guess on the whole I think I would say the feedback we have had through the inquiry is that people are relatively happy with the standards. I'm not saying a review is a bad thing but it hasn't come out of any sort of dissatisfaction with what is there, it's more a matter of making sure that it's adapting over time.

MR FLOTTMANN (GGA): Yes. I think this is a little more about being pre-emptive rather than necessarily unwinding standards for standards' sake. If you look at standards in isolation then why would you do it? If you're looking at it in respect to consumer preference, emerging markets for us that we haven't entered into at this point, then it's really a question of whether we have the capacity to respond to those changes.

DR CRAIK: One of the other comments you make in your submission is that growers are presently not able to receive full value for their crop in most cases. Can you expand on - - -

MR FLOTTMANN (GGA): Would you like to refer to that page where you are, Wendy?

DR CRAIK: Page 28, the last paragraph.

MR FLOTTMANN (GGA): Wendy, I think if you go back to the paragraph above

it it probably puts it into context. The context is that we're primarily a commodity-based industry, that there is opportunity for further differentiation and differentiation can occur through the commodity trade.

DR CRAIK: Yes.

MR FLOTTMANN (GGA): But in terms of trying to extract full value, look, it's also a reflective comment on the supply chain generally. In the main, and these are generalisations, producers don't perceive themselves to be necessarily part of a supply chain and arguably need to change some of their market behaviours to work out how they extract better value out of the supply chain, be it the local freight provider or people who are actually marketing their grain.

MS MacRAE: I guess you would argue though that the current arrangements now are giving growers a lot more opportunity for those things than would previously have been the case.

MR FLOTTMANN (GGA): Correct.

MS MacRAE: They've got options that they wouldn't have had before?

MR FLOTTMANN (GGA): Yes.

DR CRAIK: But then your next sentence suggests:

It is important that government supports our industry to move forward -
so what do you expect the government to do?

MR FLOTTMANN (GGA): Freedom to operate is good. Look, I think that arguably occurs at a number of levels and I don't think it has a lot do with the regulatory process around Wheat Exports Australia.

DR CRAIK: I guess that's what I was getting - - -

MR FLOTTMANN (GGA): Yes.

DR CRAIK: Do you want them to regulate something or do you just want them to get out of the way?

MR FLOTTMANN (GGA): No, I think it's - - -

MS MacRAE: To not regulate.

DR CRAIK: To not regulate something or do you want them to just provide a kind of notional, "We think the wheat industry is" - you know, "We support the wheat industry."

MR FLOTTMANN (GGA): I guess the comment about how we perceive the current operations with government is that it's very much a non-interventionist process. If there's issues related to market failure then the industry should be self-determining how they actually respond to that. But I think it's important industry and government have a very healthy relationship, have a reasonably shared vision in terms of where that industry is likely to get to. So no, it's not implying re-regulation.

DR CRAIK: A lot of intervention, yes.

MR FLOTTMANN (GGA): But more a - some symbiotic relationship that allows the industry to move forward.

DR CRAIK: Yes.

MR FLOTTMANN (GGA): Unquestionably it's useful to have government support financially at times. It's a good thing. But in respect of expecting government will respond, as an industry I don't think we expect that.

DR CRAIK: Okay, thanks.

MS MacRAE: Just one final thing. I was just interested in - given that you are a grain organisation rather than solely a wheat one, there has recently been a relatively new organisation, I understand, formed in Western Australia which is an oversighting - a grain body rather than a wheat specific one.

MR FLOTTMANN (GGA): Yes.

MS MacRAE: Their argument is that that has helped them in looking at common issues like supply chain issues that are across grains. Would you see value looking at these - handling of some of these industry-good functions including things like lobbying, I suppose, and promotion of grains and those sorts of things, do you think there's synergies that would make that a useful sort of organisation for the east coast well? Have a grains body rather than a wheat body?

MR FLOTTMANN (GGA): There's a lot in that question because it - you're at one end of the spectrum from lobbying as distinct from providing services as distinct from providing industry response. I think there's a - there's still a strong case to

argue for a revised, revamped national producer model specifically - - -

DR CRAIK: Producer model?

MR FLOTTMANN (GGA): Yes, for the wheat industry.

DR CRAIK: Like Grains Council sort of thing?

MR FLOTTMANN (GGA): Yes, but I don't think it's a grains council.

DR CRAIK: Yes.

MR FLOTTMANN (GGA): The wheat industry needs to - particularly in respect to producer representation it needs to address these issues first before it contemplates where it might spread its wings beyond that area. Logically there's a place to play for grains more broadly. GIWA is a group that obviously has a degree of effectiveness within WA without much in the way of capital and support, external financial support. So there's some structural issues there anyway.

MS MacRAE: Yes.

MR FLOTTMANN (GGA): I think it's extremely difficult to try and wrap up processes such as lobbying and advocacy with trying to deliver commercial services to the industry. I think those functions largely should be somewhat separate. Certainly there is a case to argue for, again, a revised producer representative model that can convene with the trade exporters and the like in a way where the entire industry gets some level of traction. What has inhibited that in the past, quite frankly, has been politics. The politics and the emotive aspects, the divergence of opinions in relation to marketing have meant that we've had one end of the supply chain try to drive outcomes by commercial means and the other half trying to drive it via political means. If we can actually find some common ground then we've got a much better chance of getting effective supply chain representation.

DR CRAIK: Do you think there needs to be a kind of Australian Wheat Council which picks up the exporters and bulk handlers and growers like a kind of peak body, I suppose you'd call it?

MR FLOTTMANN (GGA): Yes, I've got a personal preference not to make references to peak bodies because I think it actually conjures up images of - - -

DR CRAIK: Of control, yes.

MR FLOTTMANN (GGA): - - - processes that we just don't need right now. I

think the industry will grow into that outcome. I think it will grow into a national form of forum, whatever you call it, but I don't think it's quite ready for it yet. Certainly the farm sector is going through a bit of agony at the moment trying to determine how it does represent itself. GGA is part of that process but equally we're trying to establish a separate platform for our company clearly as a services company not – just for producers but for the supply chain. What I can say is that the trade more generally and obviously grain exporters will provide you an opinion on this as well. They have a significant interest in trying to get the right level of engagement with producers. Ultimately this is about trying to make this whole industry work and be functional. If we're able to rid ourselves of the divisions that have been pulling this industry apart a little bit through the deregulation process I think we'll get a much better outcome.

DR CRAIK: Do you think that transitional regulatory arrangements need to stick around for a few more years or do you think that we've been through a transition of - well, it will be a couple of years by the time.

MR FLOTTMANN (GGA): Well, again, in our submission I think we're suggesting that they should - we don't see a future role for WEA in its current form. If you were to have anything still in place arguably an ESCOSA model out of South Australia might be some way to extend the transition. But fundamentally we don't see it bringing significant value to the industry. We do see it bringing cost to the industry but beyond that we don't believe it necessarily should be in place.

DR CRAIK: Okay. Any more questions? I think we're right. Thank you very much, Peter. Thanks very much for coming along.

MS MacRAE: Thank you.

DR CRAIK: Thanks for your submission today.

MR FLOTTMANN (GGA): No worries.

DR CRAIK: We'll get a couple of those reports from you.

MR FLOTTMANN (GGA): Yes.

DR CRAIK: Off your web site.

MR FLOTTMANN (GGA): Okay.

DR CRAIK: Thanks very much. Thanks a lot, Peter. We'll break for morning tea for about 15, 20 minutes and then we'll start again with - - -

MS MacRAE: Grain Trade Australia.

DR CRAIK: - - - Grain Trade Australia. So thank you very much. Thanks.

MS MacRAE: Thank you.

DR CRAIK: Welcome to our hearing today.

MR FARNSWORTH (GTA): Thank you.

DR CRAIK: If you could start by introducing yourself and the organisation that you represent for the record and if you've got a few remarks you wish to make we welcome that and then we'll ask you a few questions.

MR FARNSWORTH (GTA): Geoff Farnsworth. I'm a principal with Macpherson and Kelley, but in my capacity today I'm a director of Grain Trade Australia and legal counsel to Grain Trade Australia. We have responded to the issues paper, in particular in relation to the dispute resolution issue raised, and we put in a submission dated 13 November 2009.

What we did in that submission was we referred back to an earlier submission that we had made to the ACCC in relation to dispute resolution under the access undertakings and made the point that GTA has an active well-established industry based dispute resolution and arbitration system and that that service was able to be extended into the dispute resolution as part of the access undertaking regime that the ACCC was at that stage developing, and which has now obviously subsequently been established.

The ACCC, as you know, has reserved to itself in the first instance a dispute resolution facility, and then said that it will consider what an appropriate way of resolving disputes might be and will either deal with disputes itself or will refer them out to another body that is appropriate. Grain Trade Australia does not necessarily wish to make a comment as to whether or not the ACCC is well-placed to deal with access disputes, at least partly because we haven't seen any empirical evidence of how they might handle them, and we would assume I think that they would handle them professionally and competently. So we don't want to necessarily challenge the role of the ACCC. All we can do is say that we remain a ready and willing body, able to provide this service.

Based on I suppose the history of the experience that we have had of managing arbitrations, I suppose the focus that we have on the grain industry and the issues that are live in it, that I think is relevant to arbitration, in that it is meant to be a commercially-focused dispute resolution system, and I think we have demonstrated our ability to do that. We have also been in a position I suppose to respond to some of the issues that others flagged; reservations, I might say, about the role of GTA, and one of them was conflict, and there was this perception that, "Well, there'd be too many people with conflicts to be arbitrators."

Our response to that is that certainly on the broader list of GTA arbitrators there are people from GrainCorp, there are people from Louis Dreyfus, there are people who are actively involved in the industry on a daily basis. Yes, I accept that it would not be appropriate for those individuals to be arbitrating access disputes. But there are also a number of people on our list who are retired from the industry or who are slightly outside the industry now and who I don't think would have any conflict in fact.

But I suppose the other point to make is that in terms of the appointment of arbitrators there's always scope for reasonable challenge if one of the parties perceives that a particular individual may have a conflict. So that can be dealt with up-front. I think one of the advantages of arbitration generally, and certainly one of the things that I would think that GTA sort of tailored access system could do, would be to resolve these disputes quite expeditiously and certainly much more quickly than could be done through a court process. I think with expedition comes a degree of informality - "informality" is not the right word, but, yes, the submissions possibly may not be as expansively developed as they would be if it were a piece of Supreme Court or Federal Court litigation.

DR CRAIK: So you mean you wouldn't need so many lawyers in it?

MR FARNSWORTH (GTA): You wouldn't necessarily need so many lawyers. You wouldn't necessarily need a hearing and oral evidence. The GTA system currently certainly permits the parties to have a hearing if they think that a hearing is necessary because they wish to cross-examine witnesses or they wish to make submissions to the arbitrators, but in the history of GTA arbitration there has been one oral hearing; the parties just don't feel that that's necessary.

DR CRAIK: So it's done when someone puts a letter in and someone else puts a letter in and that's it?

MR FARNSWORTH (GTA): There's an exchange of submissions, so it's pretty much the same as in court. There's points of claim, which will contain statements of witnesses, if that's necessarily, and documents. There is then points of reply, which is in effect the defence, and the same thing happens; so they answer the points that are made in the points of claim and they attach any relevant supporting documents, and then the initiating party is usually given an opportunity to make further submissions addressing anything that's raised in the points of defence.

That's usually all that's required, but quite often new issues crop up. I suppose I should say that the touchstone of arbitration, and certainly something that GTA has always been very mindful of is procedural fairness and natural justice. Obviously everybody has got to be given a fulsome opportunity to address of the issues that

may arise. That then leads to I suppose a little bit of friction, because often a party wants to put on some further submissions whereas the other party says they have had an adequate opportunity.

So it's the role of the arbitrator and the administrator of the arbitration to tread the fine line between giving parties an opportunity to adequately address all the matters before it that they genuinely need to and not to protract the process, just for tactical reasons possibly. They're the sorts of things that we're very mindful of, always have been very mindful of, in the way that we administer the arbitration process, and we think that we can certainly devise a system, drawing on our expertise, which is tailored to access disputes.

DR CRAIK: Thanks very much, Geoff. Just a quick question. Has the ACCC given any indication whether they would consider GTA as a possible arbitrator?

MR FARNSWORTH (GTA): No. To be honest, commissioners, we haven't sat down and had that discussion with them. Time has just not allowed it at this point.

DR CRAIK: It's probably not worthwhile till something looks like it's coming up I suppose. Okay. Angela?

MS MacRAE: Just in relation to the dispute resolution you're already involved in, can you just tell me the nature of that? Would that be between contracts that might be based on the sort of GTA-model contracts? Is that the sort of thing you're involved with? Like, we were talking with GrainCorp earlier, and I'm not sure if you were in the audience then or not, but if someone had a dispute when they got to receival point and somebody said, "This doesn't meet the standards," and a grower said, "I think it does and I've got something back on my farm and I tested it," is that the sort of thing that comes to you? I mean, I'm sure you get all sorts, but I just wondered if you could tell me the nature of the - - -

MR FARNSWORTH (GTA): They're contractual disputes obviously exclusively, because that's where GTA gets its jurisdiction from those contractual disputes. The most common form of disputes that we have are probably best categorised as disputes over the very existence of the contract itself.

MS MacRAE: Right.

MR FARNSWORTH (GTA): Because as it has been put to me - and I say this with a grain of salt - it is customary or some view it as customary that growers don't sign grain contracts.

DR CRAIK: What, it's just an oral contract?

MR FARNSWORTH (GTA): Well, it's usually entered into over the telephone and the appropriate process is that then the grain buyer will send a copy of the contract to the grower and ask that the grower sign the contract - - -

DR CRAIK: And send it back.

MR FARNSWORTH (GTA): - - - which the grower often doesn't. Well, certainly - I should say that the grower may sign the contracts in 99 per cent of the cases but in the cases that we see there is often an unsigned contract, so there's a dispute about whether or not the contract was entered into and if so, on what terms. So they're quite common. So there's a default under - there's a failure to deliver or failure to deliver the full contractual quantity and then there's a dispute over whether there was a contract and if so, what were its terms. So that's quite a common one. We've had quite a few disputes roll out as a result of insolvencies in the grain industry because that obviously - and insolvency will trigger many defaults under various contracts, and we've had to handle quite a few of those.

DR CRAIK: Insolvency of the trader, not paying - - -

MR FARNSWORTH (GTA): Insolvency of one of the traders, yes, not fulfilling the contract or - under the GTA contract there is actually - the default due to insolvency, if you like, crystallises the position under the contract. So it may well be that if an insolvent - if a grain buyer, trading company buyer, becomes insolvent and it is sitting on a contract which is in the money, as the term goes - - -

DR CRAIK: What does that mean, sorry?

MR FARNSWORTH (GTA): It's priced in its favour. So the market price as at the date of the default is lower - I'm a bit confused, lower or higher than the market so that it is beneficially in the interest of the insolvent party and they are able to claim, so the market price is lower at the time of the default than the contract price. So they are able to claim from the other party the difference. I should say that's quite a controversial provision in the rules which leads to a lot of disputes.

DR CRAIK: Are growers happy for you guys - who are mostly traders, aren't you, GTA?

MR FARNSWORTH (GTA): Mm.

DR CRAIK: Are growers happy for you people to nominate arbitrators of disputes? I mean who brings the dispute to you, the growers or the traders?

MR FARNSWORTH (GTA): We've had both but by and large I think it's fair to say that the majority are the traders. I think it's also fair to say that the growers often resist - well, the growers will often resist the process on the basis that they say there was no contract, "We didn't sign" - you know, the script is usually, "We didn't sign anything. So you can take a jump." So if the buyer wishes to commence arbitration there can be some resistance from the grower, not necessarily - although it has been said in some jurisdictions and in some cases that GTA is a traders' club and that growers will not get justice. I think that over the last few years anyone who has participated in the process knows that it is certainly not biased in any way, shape or form and growers are just as likely to win as - you know, the party in the right will win, by and large, whether that's the grower, whether that's the trader.

DR CRAIK: Certainly in some of our forums, I think it was, people have indicated that I guess they're a bit - wary is probably the right word of the GTA code of conduct, bit wary of the usefulness of it, because they're all traders.

MR FARNSWORTH (GTA): Yes, the thing, commissioner, is though that we do have a number of growers on our arbitration panel. So a grower, if they elect to participate in the arbitration, can appoint a grower as their arbitrator.

DR CRAIK: Okay.

MR FARNSWORTH (GTA): Which I think gives them at least some comfort. We have noticed - there is, if you like, a pool of solicitors who regularly appear and participate for growers. In my experience it's often the case that the first time they're involved in the process they're very resistant because they think their client is going to get steamrolled by these traders. I think without exception once they've been through the process they realise that it's not like that at all and in the second and subsequent matter that they're handling for other growers usually they're much more accepting of the process because they've had experience of it and they've seen that it's not a kangaroo court.

DR CRAIK: Okay.

MS MacRAE: I mean as I understand it I think the ACCC - I don't think I'm saying anything that is not on the public record, that they were concerned about nominating a body to be the dispute resolution body by name in the undertakings just because there wasn't agreement across the industry about who that should be.

MR FARNSWORTH (GTA): Yes.

MS MacRAE: So I guess that just reflects the potential, at least, for the grower arm to be concerned. You might not have a view on this but we also had a bit of a view

about the GTA - it's not in your submission so if you don't want to answer the question that's fine but we've had some concerns raised in our other hearings about the GTA setting a receival standards and the locational differentials and that there's a concern that they're set in ways that are more favoured towards the traders than the growers. Would you have a - - -

MR FARNSWORTH (GTA): Look, all I can say is that the process that I have observed, internal process through which GTA goes in setting receival standards and location differentials is entirely transparent, it's open to anyone who chooses to participate in the various committees that are involved; that grain grower representatives, farmers groups, are able to and do participate in those committees. I don't think it has really ever come down to a vote about - you know, with the growers on one side and the trader on the other and the trade, because they can stack the numbers, getting something through that the growers don't like. That has never been part of the GTA process. I think the GTA process has, as I say, been - it is inclusive and transparent.

MS MacRAE: I guess just the final thing, I think you quote in your submission that the average estimated cost for an arbitration is about \$7000 for each party and I would say that is probably much, much cheaper than anything you would ever get through the ACCC. The ACCC was saying - I mean when we spoke to them they said that their expectation was that they wouldn't - these are not - they weren't expecting disputes to be arising every few minutes and having a whole lot of these, that they were expecting that should they ever have to act it would be very rarely; and I think an acknowledgment that having to deal with things that might be more of a day to day kind of dispute, and I guess the sort of things that might come up - well, I'd be interested in your view about what sort of things you think might come up, if you've got any views about that, and whether you think that figure, that 7000 there, would be sort of representative of what you might think an access dispute might be.

I mean obviously this is for your contractual - existing role, whether that cost would likely be similar? I mean I guess the sort of things I was thinking of was that you might get a dispute over whether, you know, you got an unfair charge when you took your truck to port and it's supposed to be under the non-discrimination clauses with the undertakings that they're not allowed to do that and you thought there was a problem, or you didn't get access to the shipping stem on the terms that you thought had been agreed. Is that the sort of dispute that you think might come forward?

MR FARNSWORTH (GTA): They're the sorts of dispute that one would envisage. In relation to the fees, the way that GTA has traditionally worked fees is that - I should say a number if not most other arbitral bodies charge an administration fee and then allow the arbitrators to charge a sitting fee or an hourly rate for doing what they do. We have historically front-ended it, if you like. So you basically pay

virtually all of your fees up-front with a reservation that if GTA is to incur additional costs in the process because it's a particularly protracted or complicated dispute, then it can recover some of those costs. So it doesn't always charge over and above the schedule fees, if you like.

My thinking was that if we were to recruit and probably train and give some training to a pool of, if you like, sort of specialist access arbitrators, we may actually move towards the more traditional model of having an administration fee, plus allowing the arbitrators to charge for their time. So the \$7000 fee, that obviously doesn't include the legal fees that the parties themselves incur, so the total cost associated with conducting an arbitration is very difficult to guess at because as you say, it could be a simple thing of - - -

MS MacRAE: Every case would be so different.

MR FARNSWORTH (GTA): You know, "We were charged a \$500 fee that we don't think we should have been charged," that shouldn't be too difficult to resolve and it shouldn't cost thousands and thousands of dollars to resolve a dispute over 500. But you could also envisage that there may be far more intractable and complicated disputes.

MS MacRAE: Would you have any idea of what the minimum possible cost might be? I'm thinking about people, a small operator, maybe a grower that has a dispute, and it is maybe going to be over smaller sums. Is there a likely sort of minimum amount that you think might be - - -

MR FARNSWORTH (GTA): To be honest, I hadn't turned my mind to - what GTA has, we have - and a lot of other arbitral bodies have - what they call a fast-track option so that there's the traditional full arbitration which is usually three arbitrators, and that is appropriate for larger and more complex disputes. Most bodies have, if you like, a fast track which is dealt with by a single arbitrator.

MS MacRAE: Like a small claims court sort of thing.

MR FARNSWORTH (GTA): Yes, the same sort of thing, where the process is truncated even more than usual to really keep things to the bare minimum. Having said that, we've found that by the time you get to a dispute, people want to take every point and they have dug themselves into their trenches and they don't want to make any concessions, including often agreeing to a fast track. It's quite strange, people's mentality, when they're involved in disputes. But there's no reason why we couldn't tailor a system to deal with - you see, what we've also looked at in the past is, if you like, an expert opinion or almost like a non-binding opinion service which seems like a really good idea but no-one has ever used it. It's meant really to be a system

whereby people can say, "We can't agree on this. Can't we just ask an independent third party to give an opinion?"

MS MacRAE: Yes, right.

MR FARNSWORTH (GTA): That should be - - -

MS MacRAE: The cheap and easy kind of option, yes.

MR FARNSWORTH (GTA): Yes, but people don't use it.

MS MacRAE: I suppose, like you say, once you get to that stage, people want to have their say. No, that's fine. I can appreciate, obviously you won't have gone into a great level of detail on all these things but I was just interested in the nature of what might be involved in the costs, so that's helpful.

DR CRAIK: I think, Geoff, that's really all we've got today for you, but thanks very much for coming along. Thanks very much to GTA. I'm sure we'll see more of you.

MR FARNSWORTH (GTA): Thank you.

DR CRAIK: Thanks a lot, Geoff.

DR CRAIK: Welcome. If you wouldn't mind introducing yourself, who you are for the record and if you've got a few introductory remarks, we'd be grateful to hear them. Thank you.

MS RICHARDS (AGEA): Rosemary Richards, I'm the executive officer with the Australian Grain Exporters Association. I guess for a bit of background, AGEA has been around for quite a long time but like the rest of the industry I guess has been through a bit of a transition. But consistently AGEA or the exporters group has always been supportive of an open and contestable marketplace. We certainly believe that it will create most value for the whole of the industry, growers and the marketplace. Over its long history, it's always supported and campaigned, if you like, for a contestable market.

I guess in the transition that's happened since deregulation has occurred, the group has certainly broadened its representation and it now does represent most of the grain exporters, not only the bulk wheat exporters but also our members trade all export grains and trade in bulk containers or whatever.

I think we certainly see that the wheat deregulation has been part of a long process of change that the industry has been moving towards and alongside that change I think we've certainly seen the industry develop a range of functions and activities that allow it to operate in a deregulated market and GTA is one of the key bodies that the industry has supported to put in place those tools that we need to ensure that trade is facilitated on a fair and open basis. I think from our point of view that deregulation has certainly given far more opportunity to the whole of the industry. Our members have certainly got far greater opportunity to participate in the marketplace but also growers have got much broader options in terms of their marketing options today and much more flexibility for those growers that do want to take the opportunity to market their own grain.

I think certainly the marketplace is changing and I think from our point of view, some of the issues and conflicts that have perhaps come up over the last 12 months are part of a recognition of that marketplace changing. I think the past system, where markets were seen as, if you like, discrete countries and grain was managed in an equal supply to those countries over a 12-month period is not really how the marketplace operates today. Certainly I think our members would see that they deal with customers rather than countries and that we are competing against a whole range of other export origins and therefore we need to take advantage of selling our grain at the time that is going to give the greatest advantage back to Australia. That means that it's not perhaps an equal supply over a 12-month period.

Just to touch briefly on what we've recommended in our submission in relation

to WEA and accreditation, port access, we are in agreement with some of the other parties that have spoken this morning that we don't see that there is a need to continue WEA on past the transition arrangement. I guess what we see is that the transition has been put in place and accreditation has been given to some parties out to 2012, so we would see that as the appropriate period for sunseting the arrangements. I guess our members would certainly see that perhaps those parties who already have accreditation could have a less onerous review and monitoring process through the next three years and we've indicated that perhaps anyone who wants to come on board as a new exporter in that period could sort of go through the same accreditation process.

In relation to the port access, we obviously play an extensive role in the ACCC process and I think our members' views are well documented in the further extensive submissions that we put through to that. We think now that that process has been done, the undertakings are in place, that those undertakings should be allowed to operate through to the end of their period which is 2011, and that at that time, be reviewed to see whether there has been any change in behaviour, where some of the concerns that were raised have been addressed, which also would fit in nicely with the sunset timetable of 2012. I might leave it there and if there's any questions - - -

DR CRAIK: Thanks very much, Rosemary. I notice you've got Viterra as one of your members. Do you have any other bulk handlers as members?

MS RICHARDS (AGEA): No, we haven't. Certainly we've had discussion with them. The view of our members is that we'd rather have them in. We think some of the issues that we discuss across the board impact on exporters. They're certainly part of that. I guess at this stage the other two major players have chosen to stay out and part of the time we were talking to them was when the ACCC access regime debate was going on. Look, certainly the offer is open there for them to become members at any time and we'll continue to have that dialogue to see whether or not they want to be members.

DR CRAIK: Presumably having them as members makes it difficult on some issues to reach a position?

MS RICHARDS (AGEA): Yes, certainly and part of the transition that we've gone through is that we have developed a new charter and that has a decision-making process in it for us. I think whilst there are some areas where there are some differences, I think at the end of the day we're all trying to work towards a more efficient supply chain and that's really the major objective of what we're on about. Again, I think the last 12 months has cost everyone a lot of money and I think if we can resolve some of these issues through discussion that's a better way to go.

DR CRAIK: Do you think with WEA and the renewals by WEA - how have your members found the renewal relative to the original application?

MS RICHARDS (AGEA): I think different members will have different opinions and it's certainly related to size and how many resources they can throw at things. I think generally they have found the process quite onerous. Obviously our members want to be able to export grain so they're happy to participate in that process. But, yes, the renewal process was very rigorous and was very onerous on some of them and that's why I think in terms of going forward, if things stay in place until 2012 now they have a three-year accreditation, that there may be able to be some way of aligning the cost benefit or risk reward of what's required in a monitoring process going forward.

DR CRAIK: On port access you suggest that the undertaking should continue for the current term and beyond that a link to a review of their performance against the undertakings. Would you think that if the bulk handlers behaved as the undertakings indicate they will and there was little evidence of disputation during that period, would you think then that the undertakings could be dispensed with and just revert to the Trade Practices Act or what would AGEA's view be about that?

MS RICHARDS (AGEA): Yes, I guess it's only a hypothetical, I'd have to say that our submissions to the ACCC would have liked the ACCC to go a little bit further than what they have been on in relation to the undertakings.

DR CRAIK: Ring fencing, in other words?

MS RICHARDS (AGEA): Yes, that's the one area where ACCC acknowledged that there were issues there and in addition to our submission, the members made confidential submissions outlining some of the issues around ring fencing in particular. The ACCC acknowledged that there were issues but made the decision that given the time frame that they would go with the non-discrimination and no hindering clauses. I can't really answer for what my members would decide but obviously if the BHC's behaviour or the port operator's behaviour does change in relation to the undertakings and I guess the members - - -

DR CRAIK: When you say it does change, does that imply that your members think they have been behaving badly up until the undertakings. Is that the implication?

MS RICHARDS (AGEA): I think in our submissions and our members' submissions to the ACCC we raised a number of issues that were of concern to our members and I guess we now want to see whether the process that has been put in place does give our members the ability to negotiate what they would see as fair

access. So if through this two-year period that can be worked out with the leverage of the undertakings there then there may be opportunity to move to a different structure. I guess what we're saying is that we would just like to see the two-year undertakings operate and see how it goes and whether there are any disputes, whether our members are satisfied and then we can have a review at that period.

DR CRAIK: Are you also concerned about information asymmetry or transfer of information between the bulk handling arm and the marketing arm of the bulk handlers? Is that an issue for your members?

MS RICHARDS (AGEA): It is an issue for some of our members and we, in our submission to the ACCC, outlined some information that we think port operators should make available and certainly under the undertakings they do need to make available more information than they have in the past so I guess we've made some progress in that area.

DR CRAIK: Thank you. Angela, do you have anything?

MS MacRAE: I don't know whether it's helpful or not to jump around a bit but there's a few issues that you mentioned in relation to CBH and some of them were in relation to the concerns around Grain Express. Certainly when we were in Western Australia some of the growers weren't all that happy about Grain Express and some of the others thought it was the best thing since sliced bread and I'm just wondering if you could outline a bit what your concerns are around Grain Express.

MS RICHARDS (AGEA): Again, some of our individual members have made specific submissions to the other part of ACCC that looks after Grain Express and have detailed that. I think the general principle that our members - AGEA actually supported Grain Express when it was originally proposed, prior to last season, on the basis of the information put forward by CBH and, if you like, the accountability that would be there with Grain Express. What our members have seen is that there really hasn't been that accountability in the terms of levels of service et cetera. So at the moment our position is that we don't support the continuation of Grain Express and the members would like to have a more open opportunity for direct access to port in Western Australia.

MS MacRAE: In terms of describing the new world, if you like, and how you would like to see that, you talk about the new system having to provide incentives to improve capacity and I would say that the access undertakings aren't really about making - as I understand them under Part IIIA and also under the WEA requirements that there is no requirement on the port owner to necessarily have to provide capacity for anyone who wants it. What I'm saying is, is that an unreasonable request to make under an access requirement?

MS RICHARDS (AGEA): I think what can be applied to bulk handlers or port operators generally, I think that's specifically that's an issue with the CBH auction system and we certainly don't believe that the way the auction system operates by putting up an artificial nominate at 70 per cent of capacity and a surge capacity is allowing that to operate to its full efficiency. Our members' view is that the full capacity because the limitation of service isn't really with the elevation at the port. We know those ports can do more capacity than what they're doing. So we think that whole capacity should be offered up to members.

DR CRAIK: So you're saying auctioning should be 100 per cent. That's the shipping capacity that's auctioned off, isn't it?

MS RICHARDS (AGEA): The shipping capacity, yes. There are a number of issues that we have with the auction system but one of them is that, yes, a 100 per cent - we don't agree with surge capacity. We think 100 per cent of the capacity of the terminal should be put up for auction in the totality. In our discussions with CBH in working towards their final decision, we actually proposed a much more flexible pro-rata system. We certainly didn't support the auction system. There's a number of issues with that auction system that we have and the capacity allocation is one and again we think - - -

DR CRAIK: Is it an unreasonable way though, if the capacity is less than the grain to be exported for a month or something?

MS RICHARDS (AGEA): There obviously has to be a system that rationalises that when there are months where it comes out. Again, I think part of this is a bit of an overhand with the previous system where some of the port operators are still trying to look for an even utilisation of assets throughout the year and that's not the way the grain market works. Our grain is always going to be probably exported in a tighter window. There will obviously be some exports go across the year, but there are going to be opportunities where our grain slots into the market ahead of other competitors that come onto the marketplace. So there are going to be peak periods of shipment and I think it's a matter of trying to get the utilisation of those facilities to match the grain market.

DR CRAIK: How does that auctioning system advantage the port operator as opposed to the seller?

MS RICHARDS (AGEA): It's more that, if you like, the artificially limiting capacity throughout. So essentially they're only allocating 70 per cent of capacity number - and again this is part of our request that we put up through the ACCC is to actually understand how they come to that, to work out the capacity of the terminal.

There's obviously a number of things that are going to impact on what capacity a terminal can have, and, as I say, it's not the actual elevator capacity of that terminal that's the limiting factor, so some of that capacity number we think is more related to their logistics of the supply chain and not as part of the direct access.

The other major issue that we have with the auction system is that you need to nominate within three days whether you want to use Grain Express or direct access. We just think it's totally artificial, there's no need to actually have to nominate within three days of an auction what system you want to use and it certainly limits the ability to have direct access into the port because of the risks that are there in the system.

DR CRAIK: You can't trade the places?

MS RICHARDS (AGEA): No, it's not changeable once you nominate.

DR CRAIK: Yes, and you can't sell it off, like further sell it on?

MS RICHARDS (AGEA): There is provision for a secondary market, so you can sell off the slot. But if you actually want the shipping slot, but you don't know nine months out whether you want to use your own supply chain or their supply chain. But you're actually having to nominate back up here in three days of the auction which supply chain you want to use. So in a sense it's forcing usage of - - -

DR CRAIK: Of theirs, yes.

MS MacRAE: So has the ACCC sort of approved that auction system as part of the oversighting of the access undertaking?

MS RICHARDS (AGEA): Yes.

MS MacRAE: They have. Okay.

DR CRAIK: Has CBH indicated they might modify it next year, based on the comments that you guys have made?

MS RICHARDS (AGEA): As far as I'm aware, they haven't indicated that formally to us. Clearly though you would expect, as part of the negotiation process, if their customers have issues with some of these things, that they might negotiate on some of those things. As I say, there was a lot of discussion in the lead-up to CBH announcing the auction system, and we were party to those discussions with them; I guess at that point not a lot, some of the issues we raised weren't addressed. The argument was that there was a time pressure to get something in place for this harvest

as well. So I guess we can only hope that some of those things will be taken on board before next harvest.

DR CRAIK: Does the surge capacity cost more than normal capacity?

MS RICHARDS (AGEA): Yes, it does. With the auction system the auction premium does actually come back - CBH does have a system to rebate that back, if you like, to the people who bought the slots. In the surge capacity that doesn't happen, the premium is not reallocated back.

MS MacRAE: I think when we say CBH they were saying they outsourced the design of the auction system to - I think they called it an independent body.

DR CRAIK: I think they did, yes; I think that's right. Would you agree that it was an independent person or was it - - -

MS RICHARDS (AGEA): Look, we certainly don't actually have any issues with the technology that they're using. It's around the rules of how the auctions operate which is our concern, not the body that they have outsourced it to.

MS MacRAE: Yes. Right.

MS RICHARDS (AGEA): We also do have some issues with the independence of their arbitration panel.

DR CRAIK: Is it in-house?

MS RICHARDS (AGEA): I think, from memory, it's a CBH person, it's the operator of the auction system, and there's a third one. But yes, essentially, from our point of view, it's not as independent or transparent as it could be.

MS MacRAE: But would you see in principle at least that an auction system would help resolve some of the issues that happened in the first year with the queuing of ships and whatever. So I guess what I'm asking is, and I think you've already said, but just to be sure I've got you right, that you don't have a problem with an auction system per se, it's more as long as you get the design rules in a way that would be - - -

MS RICHARDS (AGEA): Look, it wasn't our first preference. As I say, we thought there was a lower cost, more flexible option that you could put forward. I mean, certainly the current auction system does incur quite a bit of time and effort on the part of the exporters to manage that. So we just felt that there was other processes that could be put in place, but in principle an auction system with the right

rules around it could work.

DR CRAIK: What do, the other bulk handlers, your members feel about whatever systems they have?

MS RICHARDS (AGEA): The others are more of a nomination system, so first in, best dressed, sort of thing. Yes, still with some nondeductible up-front fees, and again we were never opposed to having to pay, you know, put some money on the table to secure a slot. You know, that's not an issue that we were in dispute of.

DR CRAIK: With this kind of first in, best dressed that the other companies have, do you have to nominate whether you're going to use their supply chain or not with them, any kind of time limit?

MS RICHARDS (AGEA): No. Well, GrainCorp doesn't have a system like Grain Express. There are some other issues in relation to their domination of rail freight and things like that; but no, they don't have a system like Grain Express. Viterra do have Export Select, but it's a little bit more flexible, in terms of the nomination, to use that, certainly not having to nominate within three days of selecting a slot which you have to use.

DR CRAIK: So do your members prefer the first in, best dressed approach to the auction system?

MS RICHARDS (AGEA): I'm more than happy, if you like, to send you the submissions that we made to CBH - - -

DR CRAIK: That would be helpful, yes.

MS RICHARDS (AGEA): - - - in terms of the system. A system we proposed was more of a pro rata basis, so a system pro rata. So you put all the capacity up, people put in their indicator capacities.

DR CRAIK: I see, yes.

MS RICHARDS (AGEA): It was pro rata'd out, they paid a fee to secure it, and then we had a secondary market that operated to be able to trade those slots. So I'm more than happy to send you that submission.

DR CRAIK: Yes, okay, that would be good. Yes, thanks very much. While we're still on ports, you're suggesting there'd be economic justification for establishing a port terminal network to compete with bulk handling companies, given the capacity to export and the volume we export, but you suggest that while there are some ports

where competing facilities are unlikely to be established, given the current practices, there is potential for some facilities maybe to be built in strategic areas. Have you got any further, I guess, information in that respect?

MS RICHARDS (AGEA): I guess it really goes back to one of the other points that we made in the submission in relation again to CBH's fee structure, the totally up-front fee structure that you have to pay at the moment, which is a total fee, FOB in storage, and essentially you're paying that up-front, regardless of where the shipping slot is, and it's a use or lose it fee. So there's some things in there that if there aren't changes, yes, the economics come in. I think it's also related to the other major point I guess that we've made in our submission to the Productivity Commission and also to the ACCC, which is a level of accountability.

We certainly at the moment think that all the risk is with the exporters and very little with the port operator, and again - suppose it has been documented in news reports - there were certainly some big losses last year in demurrage and things like that. So there comes a point I guess where, even though it might not make pure economic sense to set up another facility - and you certainly wouldn't be recreating the sorts of - what is there now, but there may well be some players who choose to put in place their own supply chains, but I can't talk on behalf of individual companies and what they would do.

If I can just make the point on the accountability. We certainly would like to see a commercial basis of dispatch demurrage. Certainly the exporters are willing to wear the costs, if they're at fault in terms of shipping schedules not being met or whatever, but we certainly would like the port operators to pay if the fault is at their end.

DR CRAIK: Yes, the port operators maintain that's commercial.

MS RICHARDS (AGEA): It is commercial, but certainly around the world demurrage dispatch is normal commercial terms, which in Australia we don't have the same - - -

DR CRAIK: Is that right, it's quite different in other parts of the world?

MS RICHARDS (AGEA): Yes, and again, I think if you refer to our ACCC submissions, it's well-documented in that.

DR CRAIK: Okay. Thanks, that's helpful. Angela?

MS MacRAE: A couple of smaller things I guess, and you might have answered this already, and I apologise, to go back to the ring fencing issue. But in relation to

the rules that apply to CBH, and I understand, you know, we have had a discussion about how it's different on the east coast and it may be exactly the same rules wouldn't apply. But are your members happy with the ring fencing that applies there? Is that sort of enough? Is that the sort of system you'd be looking for for the other two, in terms of information?

MS RICHARDS (AGEA): I'm not sure exactly what you're referring to. I guess we had issues with ring fencing on all the port operators, it wasn't purely just a CBH issue.

MS MacRAE: Sorry, but CBH have a requirement not through the access undertakings but through part of their Grain Express notification that they voluntarily agreed, but it was really part of that notification, to separate the information flows between their trading arm and their bulk handling arm. I guess what I'm asking is that at least part of the way towards the separation and the ring fencing you would be looking for in the other bulk handlers and does that go far enough or would you be looking for something even more?

MS RICHARDS (AGEA): It again goes part of the way. I guess the ring fencing one is a difficult one. I can ask our members if they're happy for you to have a look at the confidential submissions that they put in to ACCC which would give you some feel to the sorts of issues that were raised. So it is partly an information issue, it's partly also the ability to be able to make commitments, knowing that the fees are transferred between parts of the business, so there's a whole range of issues around ring fencing. Certainly the information provisions are part of it, but yes, I think our concerns about ring fencing are a bit broader. Again, I can ask if you can see those confidential submissions.

DR CRAIK: Yes, it would be good, if we could. That would be great.

MS MacRAE: And probably a much smaller issue again but on page 3, and that's just in the summary part and it's talked about again later, you talk about the industry giving consideration to the need for monitoring and reporting on conformance with grades shipped, and I just wondered why - it's under the heading Quality, so was your call for that because you were concerned about quality not being maintained or was there something else behind that?

MS RICHARDS (AGEA): No, I think it's something where we said it was more like an offer we were making. Certainly there's been lots of concerns expressed about quality. I think we need to take that in context, that certainly there has been some quality issues, if you like, that have arisen.

DR CRAIK: In the bulk market or - - -

MS RICHARDS (AGEA): Not in the bulk market, mainly in the container market. But again in a free market, people will get what they pay for, and some of those issues around quality is that it's more being what the buyer has been prepared to pay is what they've got. I guess what we were saying there was to give a greater level of confidence to the industry and transparency. At the moment we have a very strong set of receival standards so we classify our varieties, we receive them into segregations; really, individuals do their own monitoring but there's not a monitoring quality in terms of, if you like, the export side. So what we were saying is that if that was going to help in terms of alleviating some of the concerns about quality and helping manage quality, then our members would be happy to have some sort of monitoring system on the quality of grain that's shipped out - again I guess if you are shipping a certain grade or a certain segregation, that that's what is actually going on to the ship.

MS MacRAE: So would that be then for containers or for bulk or for both?

MS RICHARDS (AGEA): I think in general, our principle is that we would like to see the same quality standards around containers of bulk and certainly I think our members with shipping containers apply the same standards. Certainly one of the AGEA objectives is to try and improve quality and improve the confidence in quality. We are a member of the Wheat Classification Council and we certainly are more than happy to share our information around what they are looking for and help shape those wheat classifications. So similarly on the quality side, we're happy to do what we can to help and try and make sure people are maintaining quality standards.

DR CRAIK: Presumably that would come at a price, such a service.

MS RICHARDS (AGEA): Always. But I guess again it's something that we see as important and what we're saying is we're happy to participate in those sorts of things.

DR CRAIK: One of your other things on infrastructure, you suggest that GrainCorp applies differential quality management or has differential quality management requirements for grain from third party storages.

MS RICHARDS (AGEA): Yes, this is one of the issues around direct access. All parties say that yes, there's direct access visions, but as I say, there's lots of things that really in the end make that not quite on equal footing with their own supply chains and certainly the CBH issue of nominating within three days is part of that. Again, most of them apply different quality assessment - they don't treat the grain coming in from third parties in the same way as they treat grain coming into their own system and I think GrainCorp made that point this morning, that they make

some risk assessment around that. What we would argue is that we're more than happy for the grain to be tested on receipt at port like every other grain is, but there really shouldn't be any difference, it shouldn't be treated any differently regardless of where it comes from. If it's rejected, that's the exporter's risk and that's the risk that they take.

I think one of the other things that certainly came out in the discussion this morning too is that we recognise the issues around storage capacity at ports and we certainly have had this discussion with CBH, that at the moment, CBH keeps every individual marketer's parcels of grain separate. We are more than happy that if two exporters are exporting the same grain, and often it's coming out of the same site or similar, that providing that grain is delivered in, it's gone through its quality checks and it's okay, it can be commingled. So we're not demanding that the port operators keep every parcel of grain separately if it's of the same quality grade being shipped out in the same period.

DR CRAIK: Are the bulk handlers taking that sort of thing up?

MS RICHARDS (AGEA): Not at this stage. In fairness I should say I've only specifically been involved in discussions around that with CBH; whether other exporters have individually with the others, I don't know.

DR CRAIK: I guess one of the other issues is information, provision of information to the industry. We get very different views from people. There seems to be a view that certainly the growers would like to see more information on what's in stock, I guess, and other information that would help them decide their selling arrangements. What's the marketer's view of that, the information generally?

MS RICHARDS (AGEA): I think our submission probably is not quite as strong on this as some of the others. I think we all agree, stocks information would be useful, to be able to get a good S and D, I think everyone would agree with that. In terms of some of the other issues, particularly around the information on export statistics and those sort of things, I think our view is that a lot of that is available if you want to pay for it, so again it comes down to what should be provided free to the industry and what can be sourced commercially. We certainly think there are some minimum information provisions there. As I say, certainly in terms of the ports, we put forward some information which was - detailed in our ACCC submissions - required. We certainly would all like enough information on stocks to be able to do a reasonable S and D but beyond that, we think that some of the information - there's commercial players that will provide it for you and certainly ABS collects a lot more detailed information than what they publish free of charge if you want to pay for some of that information.

DR CRAIK: The government funding for ABARE and ABS lasts till 2011. Do you have any view about who should pay for that after 2011?

MS RICHARDS (AGEA): I guess I'm a bit like Peter, we're always happy to accept any government help. I think that information has been very valuable. Certainly during the transition period I think it's been really important for everyone that that's been available, so yes.

DR CRAIK: Do you think that the government should be asked to pay for it, beyond it, or do you think the industry would be prepared to pay?

MS RICHARDS (AGEA): I'm not sure.

DR CRAIK: Would your marketers be prepared to share and pay a contribution towards a - - -

MS RICHARDS (AGEA): It's not something that we've discussed. But in principle, I guess we support open commercial markets. It's a matter of whether that's seen as industry-good information and whether it should be made available to everyone or if it is on a commercial basis, then everyone should pay for it because it's not just one sector.

DR CRAIK: I imagine your members would pass the costs back anyway to the growers at the end of the day anyway.

MS MacRAE: If I can just go back because I remember what my question now was, you talked earlier about the problems or potential issues around the grain coming from the bulk handlers' own sites and from external and the differences that apply. The ACCC undertakings do have this requirement that they give equal access and you're implying at least that there's some frustration there that that's not applying in practice. Is that too small an issue to take up a dispute or do you feel there's not adequate dispute mechanisms under the access undertakings for you to be able to take it there? A subsequent question to that, we've just spoken to GTA about whether they might be one of the parties to be dispute arbitrator in those cases and whether or not your members would support that.

MS RICHARDS (AGEA): A few issues in there. In terms of the dispute under the ACCC process, there is quite a detailed process you have to go through so it's not just every time there is something that people aren't happy with that you can take a dispute to ACCC. So certainly there has to be documentation of those issues, there has to be demonstration of the negotiation - publish, negotiate, arbitrate - process first and then there are some specific process to go through with ACCC. So I think if there are any formal disputes that go to ACCC around the framework they've set up

with the undertakings, you're not going to see that in the short term because people will be working through the process of trying to negotiate first and then going through the steps that they need to go through in arbitration.

I think with the ACCC, if I have interpreted it right, really all they're going to arbitrate on is the framework and the process. Some of the other disputes that are going to occur are going to be more operational disputes and we certainly supported GTA as being the body to deal with those operational disputes because often they are things that need to be resolved within a day, maybe even within hours. They're not something that would really fit within an ACCC process and really do need people that understand, have a technical capacity. So our members are very comfortable with the GTA dispute resolution process, certainly recognise they would need to up-skill in some areas in relation to the sorts of disputes that we might get in this but we're more than happy to have GTA there as the dispute body around those operational disputes that need to be sorted out very quickly.

I think that is different to the issues under the undertaking themselves and whether there's fundamental issues and I think if customers aren't happy with the service that's being offered, it's going to take a little while before you see any of those disputes start to come through.

MS MacRAE: So for those operational disputes then, is there somewhere you can go now?

MS RICHARDS (AGEA): Not really. I think in a couple of the BHCs' submissions they nominated IAMA, the mediation people. I think they will get sorted out commercially. So there's not a formal process where those can go at the moment, it's really a matter of the parties working it out. I guess I'd just really reiterate that that's why we think that these undertakings should be allowed to run their course and there shouldn't be changes to the accreditation in relation to that until the period because you may not see some of the outcomes when these start to happen for some time. We think it's far too early to make a call on whether or not those undertakings have worked at this point in time.

DR CRAIK: Okay.

MS MacRAE: Will you see that by the expiry then? Do you think that will be long enough, 2012?

MS RICHARDS (AGEA): Yes, I think by then we would have a level of understanding as to whether or not the process is going to work.

MS MacRAE: Yes, okay. Good.

DR CRAIK: Do you have any more questions?

MS MacRAE: No, I think that's all.

DR CRAIK: I don't think I have any more questions, Rosemary, unless you have something else you'd like to say or points you'd like to make.

MS RICHARDS (AGEA): No, I don't think so.

DR CRAIK: Thank you very much coming along, we really appreciate it.

MS MacRAE: Yes, thank you.

DR CRAIK: If you could ask your members if you can provide us with those other things we would be most grateful.

MS RICHARDS (AGEA): No problem.

DR CRAIK: We will resume at 1.30 when we've got the New South Wales Farmers. Thank you.

(Luncheon adjournment)

DR CRAIK: We might get under way with this afternoon's proceedings. Firstly, if I could welcome the New South Wales Farmers Association people here this afternoon. If I could ask you to identify yourselves and your position for the official record and then if you'd like to make an opening statement, we'd appreciate hearing that and then we'll ask you some questions. Thank you.

MR RIDLEY (NSWFA): I'm John Ridley and I'm senior vice-president of the New South Wales Farmers Association and the immediate past president of the grains committee.

MR HOSKINSON (NSWFA): Mark Hoskinson, chairman of the New South Wales Farmers grains committee.

MR MASON (NSWFA): Ben Mason, policy manager cropping and business economics and trade, New South Wales Farmers Association.

MR HOSKINSON (NSWFA): I would just like to thank you for the opportunity to come today; it's been a busy week. If I may first point out it's been very untimely for this inquiry for major dates considering this falls into some of the busiest times on the farms for a lot of the growers across New South Wales and, unfortunately, I think it has restricted some people from putting submissions forward and actually attending. I believe there was a large gathering at Dubbo the other day which shows that if it was held at a different time it would have got a larger gathering.

New South Wales Farmers is a member based organisation which a lot of the members are grain growers. Our policy is set down at a conference each year after sometimes exhaustive debate and the policy is installed by the majority of delegates present. Our policy on wheat marketing was passed by a majority of 80 per cent, that's about three out of four of those who voted at the conference installed that policy which is in our submission. This reflects not just other polls like Tony Vince's poll but also those done by The Land newspaper, all showing strong support for a national pool and a grower-owner controlled, not-for-profit business.

Farmers are expert at growing food and fibre but when it comes to wheat marketing and tremendous risk associated with doing all the hedging, once done by the national pool, sharing the risk they may not just have the ability to do it due to lack of finance and the knowledge. They risk hundreds of thousands of dollars by doing so each year if they were to go ahead and do it themselves something that was done by the national pool and because of that some farmers have missed out on maximising the returns that were on offer under the national pool. One mistake could effectively kill off the farm. A number of farmers across Australia submitted different motions to me prior to deregulation to allow me to present this information

to government to warn them of the disaster deregulation of the export wheat market would have on drought-stricken farmers at a time when they could least afford it. I have a copy of that I will present later.

I circulated this document to many politicians and advisers as well as putting the points forward to a number of the pre-deregulation meetings requesting that a detailed business plan and modelling be conducted to provide one way or another would growers benefit or suffer from deregulation. This was refused. I also requested a plebiscite of growers to be done to democratically show which way the majority of growers wanted the export industry to develop into. That was refused. Machinery costs and input costs have dramatically escalated and growers who are price takers have been forced to accept further losses caused by deregulation of their wheat market and increase in the supply chain costs. In fact deregulation has taken growers back 70 years in time before all the benefits of collective bargaining was reduced to the single desk, by a Labor government, I may add, to protect growers and what has redeveloped now.

Growers returns have diminished while overseas competitors, backed by massive government subsidies are ecstatic about the loss of the single desk as it was the only tool we had to compete on a mountainous world marketing playing field. They are now invading our long-cherished premium markets. We had a single desk stripped away from us to benefit our competition with no reduction in the subsidies helping the growers. I wonder who is standing up for growers.

Growers, having another drought-affected harvest, are looking closely at the prices on offer and the increase in supply costs and they have, in many cases, withheld their grain from sale except where cash flow is required to fulfil bank commitments. This comes at a cost to growers as well. The old national pool gave us somewhere to deposit our grain straight off the header and get up to 90 per cent advance in different forms until the pool was sold out over an 18-month period. This change in environment has made the banks uneasy and I can speak personally that the banks are very uneasy about offering further finance to put next year's crop in. We no longer have a benchmark for the whole grains industry but a flaw (floor?) in the market for which budgets and securities can be based upon. The old national pool had a triple-A credit rating which made financing a lot easier than what we presently have.

In recent weeks we have witnessed a number of issues raising their heads like ships being turned away due to no grain to load, then because of the growers' resentment for the price on offer. This will not only cost growers in the future but it will increase the opinion of Australian - it will increase buyers' opinion of Australia being a dysfunctional, costly supplier of wheat.

The WEA final report for the final national pool backed the benefits of a national-run pool. It also highlighted that the pool was hampered by the government involvement disrupting growers' potential higher returns. If the past few years had been better production years, losses would be a lot higher with a lot of unsold grain lying around costing growers a lot more money. The wheat industry exists for growers as long as they can extract enough money from growing wheat to cover costs and hopefully extract a profit. Currently that extraction of the profit has been given to family and shareholder trading companies. For growers to remain in the industry a maximum amount of these profits must return to those who are the industry, the growers.

In conclusion, deregulation has and will continue to cost those who remain growing wheat huge losses; losses not only financially but psychological and physical. The whole process has been badly handled in the most undemocratic, dictatorial and immoral way. The major view of growers has been rejected in favour of big business and their shareholders as well as - welcomed by a heavily-subsidised competition and reaping the reward of deregulation; and our dysfunctional supply system - an extreme risk burden dropped on our growers by our government. Thank you.

DR CRAIK: Thanks very much. Thanks a lot for that. Can I start off by asking why you perceive bulk wheat to be different from say other grains like canola or other commodities like wool or meat or horticultural - whatever. I guess I'm curious to know why - - -

MR HOSKINSON (NSWFA): Historically it has been the largest - part of the larger exporting things which Australia exports. It's to premium customers and in the history it has been a - it has provided a strong seller base and majority - and most growers that's what they - majority of what they grow is wheat, or has been in the past.

DR CRAIK: But what about with other commodities? I guess my question is why treat wheat differently, you know, and have a - and want a single desk for export wheat as opposed to, you know, in other commodities where they're totally deregulated, cotton, whatever, you know, and wool, canola - - -

MR RIDLEY (NSWFA): Well, I think it's basically that wheat is a predominant grain grown in this country and that's mainly due to the climate being suitable for growing wheat. The pulses and the oilseed crops are very minor. Most of us grow them more for an agronomic point of view to improve the chances of growing wheat the following year. You know, they're small markets by nature and you can access things easier through containers and that type of thing rather than - it's not a bulk commodity, they're not bulk commodities.

DR CRAIK: But what about something like, I don't know, cotton or something like that, or horticulture? I mean, you know, wool, why wouldn't - I mean we did have a floor price going for wool, beef, all those things. None of them are marketed through a single desk. So I guess I'm trying to get a good handle on what's so different about wheat, I suppose that's what I'm talking about.

MR HOSKINSON (NSWFA): Well, the dairy industry are wishing they had a deregulated system again.

DR CRAIK: And no, they don't.

MR HOSKINSON (NSWFA): The orange industry just in recent weeks are calling for a collective bargaining system to be set up for the sale of oranges. Wheat being a major export of Australia and the most common commodity grown by a majority of growers is where our - if you're a mixed farmer it used to be pre-drought that the biggest commodity we grew and that was where we had to extract the maximum return to keep farming. Also, the national pool actually established the floor price and a lot of the prices for the other grains. So traditionally if you had a high grain price, the barley price and the other prices stayed firm against them, especially feed grain. So it had an effect of propping up the domestic price of grain as well, which we've seen - I've got members of our association who don't sell any grain to export at all, it all goes in the domestic market, and they're very upset about losing the single desk because it's made their task of selling grain so much harder because the prices are all over the place. Some of the dairy industry, when they're purchasing grain if we read the hay and grain report put out by the dairy industry each week it's - I don't know how they're going to survive by trying to operate in a deregulated industry because the price of grain is so volatile.

DR CRAIK: I should tell you I'm on the board of Dairy Australia.

MR RIDLEY (NSWFA): Another point to your question is I think the wheat industry worldwide is so large and it's very competitive and it's essential that you don't flood the market. It's something that's marketed over a period of time and that's why our national pool was so good. It marketed the grain over, you know, a 14, 15 month period.

DR CRAIK: Some people have put the view to us that it's better for Australian grain to get into the market say before the northern hemisphere crop and the days of - particularly I suppose too given the current volatility in weather and the subsequent volatility in the wheat market that the notion of gradually pushing the grain out over the year is really not meeting the market, the modern wheat market, I mean. Do you have a view about that?

MR HOSKINSON (NSWFA): The national pool would commence selling down or hedging the wheat market prior to crop even being sown, depending on climatic conditions. They would watch and as the wheat crop progressed they would further sell on the crop. The last two years, for example, price of grain was well over \$300 a tonne at the start of this year. We missed that opportunity because there was no national pool to jump in on that. The year before, on some of these matrices we've supplied here, they were well up over \$400 a tonne. With the way that the deregulation was handled and the government interference, our national pool operator at the time, which was AWB, couldn't take positions in that market and it continued to fall right through the year until it dropped to a low of \$100 a tonne. So growers missed out on that opportunity. So we've had people look at it and say, well, you know, there's been over a billion dollars of losses that year just purely for hedging. The flow-on effect from that has been dramatic, so - special issue with the prices on offer at the silos today. There's no competition on the board.

DR CRAIK: But presumably when wheat gets scarce, and I guess, you know, we had GrainCorp in this morning and they were saying, you know, traders can't fill their orders, then the price of wheat does start to go up and there's been a bit more activity in recent weeks as they've been trying to fill orders for ships; because people have been hanging on to their grain and they're not selling it for the same reason you say.

MR HOSKINSON (NSWFA): There's a dramatic cost in growers holding grain on farm or holding them in warehousing. Companies like GrainCorp and others they do make money out of - that's where they make money, out of handling grain and storing grain for farmers.

DR CRAIK: But don't they give it free for the first month?

MR HOSKINSON (NSWFA): First month then you start paying. So, you know, traditionally harvest is the worst time to try and sell your grain. Last year between harvest and the end of February there was a \$30 increase in the price of grain then it dropped away again. So with no position in the market by a national pool operator there was no taking out the peaks and troughs of the - or taking opportunity of the peaks and covering the troughs in the marketing. The individual pools, the regional based pools that are out there on offer today, they can't be hedged until they know how many tonnes they've got - - -

DR CRAIK: And that's just coming in.

MR HOSKINSON (NSWFA): So what used to be done by the national pool way up in front and take advantage of prices as they go through, can no longer be done till

these people - that's why we see these pre-commitment centres like \$15 a tonne pre-commitment instead of - "If you commit your grain to us now we'll give you \$15 extra because we know then we've got a lot more grain to hedge against." Last year there was - Malcolm Bartholomaeus was quoted as saying that it was something like \$50 a tonne in an upside if you had hedged with swaps physical wheat. But it wasn't being done by the growers so much, it was done by the traders. They were buying the grain at low prices at harvest time. They were taking the swap positions and they were making \$50. That should have been done by a national pool operator, not by the traders. Under a grower-controlled system that \$50 would have returned back to the growers, which if we want to stay in business that's where it has got to go. We've got to extract these profits back to growers.

DR CRAIK: Have you tried to establish a - you know, you talk about going back to a grower - I guess a co-operative kind of based single desk. Have you tried to do that on a voluntary basis as opposed to a legislative basis? I mean is there an opportunity to do it on some kind of voluntary basis?

MR HOSKINSON (NSWFA): Without legislation to get that national pool to guarantee the vesting rights on the national export pool, you can't hedge effectively against - unless you've got the vesting rights. If you've got individual pools once again you go back to the problem where you can't hedge in front.

DR CRAIK: Because you can't be sure enough - - -

MR HOSKINSON (NSWFA): You can't be sure enough who is going to commit their grain to you. Last year of the - last year of regulated market showed a lot of uncertainty. Growers were reluctant to put their grain into the pool, the national pool, because of the uncertainty that was put towards it. Being a low-yielding year I think a lot of it went domestic as well. But in normal average years - once we get back out of drought we get up to, you know, peak productions. We could see - if we had two years of peak production we could have a lot of unsold grain lying around. We've seen examples of last year where we've had a lot of weather damaged grain up north still in store because there was no receiver of last resort to soak that up. Now we have in Victoria this year a chance of some weather-damaged wheat coming in, and once again, with the dairy industry the way it is, they may not be able to soak up all that excess feed grown. So you need that buyer of last resort to soak up that off-grade wheat, to put grades for it and do the blending to bring it up to a standard and pass those profits back to the growers.

At the moment it's just sitting around in storage. With the weevil problem we have got now with no kilns to control weevils, you take a huge risk by storing that grain on-farm. I had the same problem last year, I stored grain, I treated for nine months, pulled it out in three months and it had weevils all through it, and we'd done

best practice to try and protect it. So it's a huge risk of storing grain, just the storage and the marketing of it, and one mistake, one way or the other, your wheat can become flour and also you could lose a lot of money.

DR CRAIK: Okay. John, did you want to say anything?

MR RIDLEY (NSWFA): It's interesting to note that of all the surveys done up to the time we lost the single desk there was always 70 or 80 per cent of growers favoured the retention of that orderly marketing system. Of the other 20 per cent, most probably 15 per cent of those were fence-sitters, they had a leg on each side and weren't sure which way they wanted to go, but they seemed to have some desire for freedom of choice and the ability to be able to exercise their own marketing skills and that.

Mark and I, because our position as, I guess, leaders among grain growers, it's incredible the amount of calls you field now from these exact people who want to set up some sort of a small cooperative so that we can have some united approach, despite the fact that they let the best cooperative marketing system in the world go by the way. Look, the volatility, I get text messages on that and I've seen the price for wheat change three times in 45 minutes to the extent of \$15 a tonne.

You're out there in the field and you're doing your best to make a profit and you've got people playing around with your income like that. I don't want to be selling it today if I could get 15 tomorrow. But will I get 15 tomorrow or will it be 15 less than that? You don't know, whereas with the pool we had an estimated pool return that was mostly very accurate, because they knew how much grain they were going to get and they could go out and market it well before, or back when you were planning it, they could go out and start marketing it. That's the thing that we miss most.

DR CRAIK: With a pool, doesn't it mean that someone is losing money that they might otherwise make though? If you're going to pay an estimated pool return, there's obviously some where the quality comes in lower and some where the quality comes in higher. So doesn't the person who grows the high quality wheat end up getting less than they otherwise might to kind of make the average? I mean, it has to, doesn't it?

MR RIDLEY (NSWFA): No. That was one thing about the orderly marketing system with our national pool. We had what you call a Golden Rewards matrix where the better quality you could grow the more money you got paid for it; whereas if you were a person that didn't look after your crop, keep the weeds out of it, you got less money for it.

MR HOSKINSON (NSWFA): In our submission we supplied the - - -

DR CRAIK: Yes, I know there's tables at the back, which I haven't got to, because they don't photocopy very well.

MR HOSKINSON (NSWFA): There was only the APH, the Prime Hard variety. I've got the matrixes here just to present to you, with the other grades. That answers your question that under each grade there was a different grade of wheat and they had different matrixes and different prices, so they were segregated differently at the silo, and then you got paid on premium, for the quality you delivered.

DR CRAIK: Okay. Thanks.

MS MacRAE: I don't know if we should get too much into the pricing. But with the deregulated market there's still segregation going on. Are there not products emerging that will still give you some return for, if I can call it, better quality, or higher protein wheats, or however we want to call them? I mean, is the market not going to evolve to still give you those alternatives?

MR HOSKINSON (NSWFA): There are different companies offering a form of golden rewards. But you've got to remember that, under the national pool when you delivered all the grain into a silo that was going to export, it was called the stack. The stack was managed, they could blend into that stack, you could have a lot of 16 per cent, say, protein wheat going into APH, and they could have 13 per cent, and the stack average was what the market sold the grain on. So it actually brought the price of that stack up. In the final wash-up of the whole pool the premium for that stack was distributed to the farmers.

Under the current system, because you've got multiple people with stacks in that same silo, you can't offer the same Golden Rewards, because you can't blend up to standard. It has been trucked down south down to a mill and it has also been trucked to the seaboard, so everyone's grain is mixed in together. So you can't offer a stack management, as they used to do.

MS MacRAE: I appreciate the pools are not as big now, but you've still got a choice of multiple pools. You've got freight and stuff to be concerned about, but aren't you still able to choose - within reason, obviously - and isn't there more choice now about what receival standards go into a certain stack, and can't they still average across the stack? I appreciate the size of the pool is different, but as long as you've got a reasonable size stack, why is that averaging that - - -

MR RIDLEY (NSWFA): Because the stack is not big enough. Like, with the national pool, AWB, who ran it then - and it didn't have to be AWB, mind you, it

could have been any company running this pool - knew that, no matter what the year, they were going to have 13, 14 million tonnes of grain in that stack. Now, that's where the strength was in the national pool, they could go out and start marketing seven or eight million tonnes early in the piece because they knew they'd definitely get it. If you're just operating a small pool - - -

DR CRAIK: Presumably most of the wheat in the national pool comes from WA? Is that right?

MR HOSKINSON (NSWFA): They are traditionally the biggest producer. We produced a lot. Between Western Australia and New South Wales, we were producing 70 per cent of Australia's wheat.

DR CRAIK: Yes.

MR RIDLEY (NSWFA): That's no fault of ours, Wendy (indistinct) come from Western Australia of recent times. Don't worry, we're doing our best.

DR CRAIK: It's not a criticism, it's just a statement, because they export, whatever it is, 90 per cent of what they produce or something, yes.

MR HOSKINSON (NSWFA): See, that's beauty of the national pool, having such a big stack. Then they can go to their freight operator and negotiate freight rates down. Now, from the close of the national pool, I've seen my freight rates go up \$20 a tonne in two years; that's extraordinary. Before that, with the national pool, we saw days where it sold for \$38 and through the year they actually negotiated the freight down because they had a large stack of grain to move to port. That was the beauty of having the national pool; you had the power of negotiation of having large control on the stack and be able to pass the returns back to growers.

DR CRAIK: Is there more of a problem now than there was, say, a few years ago with the state of railways on the eastern seaboard? I mean, is that contributing to the freight rates, the fact that rail is not in a very happy situation?

MR HOSKINSON (NSWFA): New South Wales farmers were successful in putting forward submissions to the government to encourage the government to invest in rail. But there lies another problem. If we can't encourage growers to put their freight through a national pool and export out by train, it's not going to be utilised and there's no incentive for government to invest into the roll-on. If you have a national pool operator using rail to truck out all this up-country grain by rail, not by truck, you get a reduced a freight rate and you get reduced trucks on the road and the flow-on effects would be astronomical.

But currently we're seeing prices like \$56 a tonne up-country from my area, where I could land it at port for \$40-odd in a private carrier and put it on the road. We have mentioned it in our submission about the way that freight rates are established and set, which is a huge problem, because we think there might be some strange - - -

DR CRAIK: This is the location differentials that GTA sets?

MR HOSKINSON (NSWFA): Location differentials are only there to give an indication for people when they set up a forward contract and to give them some sort of an idea. They don't truly reflect what happens at harvest time. There's two different freight rates on offer at home, or three actually: there's GTA freight rate, the recommended rate; and then you've got a GrainCorp rate; and an AWB rate.

DR CRAIK: So there's a GTA rate.

MR HOSKINSON (NSWFA): The indicative rate. Then there's the GrainCorp rate, because, see, the rail operate in the area as well. AWB operate rail in the area as well, and they're about \$4 dearer I think in our area than what GrainCorp is, so they can put their freight rates around to where they want, to actually receive the grain. So you can be tempted to move your grain 100 K's by road to get a \$6 discount in freight rate, and that's detrimental to the lines, detrimental to the roads.

Under the old system we had a competitive freight rate where the national pool operator set that rate, and it reflected the distance out from port. There was no incentive there for you to throw it on a truck and take it 100 K's up the road on a road train to get a cheaper freight rate, it was just as easy to drop it at your local storage, which may be only a kilometre away. So we're losing the incentive to keep the freight on the rail, which is where it should be.

MR RIDLEY (NSWFA): I think it's pertinent to note that growers have lost all control, influence in the industry, and, you know, the single desk was just the last thing to go. Like, it was only a few years back that the government ran the rails, so we had some influence over them. As well as that we had the national pool to go in and bargain for a rate for us for the 15 million tonne that was going to be moved from the pool. The storage and handling, the ports; we owned those. Now they belong to the shareholders of GrainCorp. These people - like even our own AWB that used to run our pool they're beholden to their shareholders now.

DR CRAIK: Well, a lot of these issues aren't - - -

MR RIDLEY (NSWFA): How to they make money for their shareholders? By

screwing us.

DR CRAIK: Yes. I mean the ownership of ports and railways and things isn't really a wheat issue. I mean it's not an issue generated by deregulation of the wheat industry.

MR HOSKINSON (NSWFA): It's exacerbated because you've got multiple exporters trying to push their grain through the same port, through the same outloader. You have to accumulate your grain at port before you can load a ship. You accumulate 40, 50 thousand dollars - tonnes of grain in a store before you can actually load the ship. Like we've seen instances in recent weeks where there's two ships booked to go into South Australia and they were turned away because the grain wasn't there to load them. So that cost will go back onto growers. It won't be absorbed by accounting, so eventually it will go back to growers.

DR CRAIK: But presumably if there wasn't the grain to load them then buyers will have to go out and buy the grain if the grain wasn't there. They'd pay a higher rate, won't they?

MR HOSKINSON (NSWFA): Well, I've seen - I've had my grain listed for the past three weeks and I can't get an offer over to - to what should be the price. So I look on the board and there's multiple players there all wanting to bid but none of them have put a competitive bid in. So it's - - -

DR CRAIK: You mean a bid that you're prepared to sell at. Is that what you mean?

MR HOSKINSON (NSWFA): Well, when you base on the world price and you take into account the freight rate we have to pay and all the other incidental costs that come along with it, it reduces our return, farmyard return, back dramatically. For me to survive through drought years and for me to continue to be a grain grower I've got to try and - I've got to try and market my grain to maximise my return.

DR CRAIK: Sure. No, I understand that.

MR HOSKINSON (NSWFA): Which was done under a national pool system. They had a priority to maximise return to growers. That was a slightly dysfunctional sort of a set-up. We put forward a plan that could have been better. They said - two weeks prior to the election the Labor Party changed their view 180 degrees and told us they would no longer support it, even though it was the Labor Party that set up the single desk to take all the dysfunction and risk out of wheat marketing. So myself personally I'll be going back - I'll be dropping my wheat planting by half next year. I just can't take the risk and plant down as much as I have in the past. I'll only be

planting my best country down to wheat and then hoping I get a return on it.

DR CRAIK: Do you think that would be widespread - - -

MR HOSKINSON (NSWFA): Yes.

DR CRAIK: - - - that there will be a reduction in the area sown to wheat?

MR HOSKINSON (NSWFA): Yes. Indications from my area are that if there was more sheep available to buy they'd be buying sheep and replacing wheat acres down to sheep.

DR CRAIK: So what will you be growing instead?

MR HOSKINSON (NSWFA): Looking for a niche market, growing some oats instead.

DR CRAIK: Yes.

MR HOSKINSON (NSWFA): It's a shame because our area has traditionally been one of the good wheat - prime growing wheat areas and we've had - when you see returns like this for 100-odd dollars a tonne if we get back at those sort of levels it would be fantastic. But it all comes down to supply and demand and extracting the maximum premium out of the market as well as reducing our direct cost from paddock to plate. We've got no-one out there promoting our grain any more. We're losing markets, we're losing market share directly because no-one is promoting our grain any more. We used to have that on a national pool. Whenever there was a meeting overseas to do with grain supplies, AWB was there. They had their brands and their brands were well-recognised around the world as being premium grain. If there was a problem with quality or contamination, AWB would jump straight in and fix it. There was some outstanding things recently for iron filings and some other supposed things where - - -

DR CRAIK: We can't get anyone to confirm this iron filing story. Now, was that - someone said the other - said it was in a bulk wheat export to India. Is there any - - -

MR HOSKINSON (NSWFA): Supposedly there was - - -

DR CRAIK: But does anyone - I mean is there anyone we can talk to we can get some real information on this?

MR HOSKINSON (NSWFA): AWB should be able to assist you.

DR CRAIK: Was it with AWB, was it?

MR HOSKINSON (NSWFA): Yes.

DR CRAIK: So was it before deregulation or recently?

MR HOSKINSON (NSWFA): It was before deregulation.

DR CRAIK: It was before deregulation? Okay.

MR HOSKINSON (NSWFA): It was one of the last - few last loads.

DR CRAIK: Okay, that's useful.

MR HOSKINSON (NSWFA): It was challenged. I think it's almost settled now, I think. They were talking about finalising that pool just recently because of that challenge.

DR CRAIK: Okay. I now there have been some problems with containers since deregulation - well, containers are totally deregulated but I understand there have been some quality problems with containers - - -

MR HOSKINSON (NSWFA): I witnessed first-hand the stringent quality controls that AWB put their shipments through. They store their samples in Victoria there for a long period of time in storehouses. If there ever was a quality complaint or an issue over quality they'd go back through and pull out that sample and they could trace it back and you could prove to the customer that that was - when it was loaded it was right. They could do conflict resolution. It avoided huge demurrage costs with grain sitting off port. We saw what happened in Iraq. As soon as boats started sitting off there that the amount of money it cost per day for a ship to sit there while the conflict is - in a deregulated market there's no - all the small players wouldn't have the power like AWB had and the national pool to actually get that conflict resolution done and dusted. Half the time I believe - it's just my own personal view that some of it is a bit scurrilous, some of the accusations to some of the quality just to get a difference in price. But that's the way the trade works. As an individual grower, trying to compete in an environment like that when you've got companies trying to play silly games with quality issues and things, who is going to stand up for you, one individual up against a big giant? You can't do it.

MS MacRAE: Can I just ask a question about how this receiver of last resort worked? You've just explained how in a deregulated environment there's prices available but they're not what you think you need, so you're going to hold off. But

when AWB was the receiver of last resort I mean they weren't coming to you and saying, "Well, how much do you need for your grain," were they? "How much do I have to pay you for me to take that last bit?" I mean how did that work? It seems to me that of course a market will clear at a certain price. So how did AWB - how did this sort of function of last resort work any different than we might expect in a deregulated environment?

MR RIDLEY (NSWFA): I've got first-hand knowledge of this because a grower rang me up the night before last complaining about this exact thing. He had taken a load of grain 80 kilometres over pretty ordinary roads and he got there and there was two - there was AWB and GrainCorp sites and neither would take his load. It was what you'd call HPS1, which is a bit more screenings than what you're allowed by right, smaller grains because of the drought, obviously. Now, nothing else wrong with the grain except there was some smaller grains in it, right? No dirt in it, no mould or anything like that. AWB were compelled to take his load of grain under the national pool system and the regulated market. He couldn't get - - -

MS MacRAE: At what price does he force that - - -

MR RIDLEY (NSWFA): Well, at a discounted price, but they had to take it. They had to make room for it. They had to blend it with some other grain, some other stack, to bring it up to - so that it would be brought up to a level of acceptance to the buyers, that they had to do it. Whereas the other day, "Get lost, mate. We don't want your grain."

DR CRAIK: Presumably someone would buy it at a much discounted rate now, presumably?

MR HOSKINSON (NSWFA): But under a national pool system you had the ability to search the world out for anyone who wanted to buy that type of grain. If it wasn't blended up there was opportunities there for a strong national pool to offer a pool and give the growers a first advance on their grain rather than sit and store it at home for the weevils to eat while they're waiting for a home for it. They got offered the first advance, they took it. If it took two years to sell down that grain it was better than the grain sitting on the farm doing nothing.

DR CRAIK: Wasn't their problem, yes.

MR HOSKINSON (NSWFA): We've had it, years gone by, with shot and sprung weather-damaged wheat where the national pool took that wheat, they blended it and some wasn't as bad as others and they could adjust the specification to the final purchaser. But it was always clear it wasn't sitting around for eternity sitting there getting full of weevils. It had the ability to clear that - all the others - as John said,

there was - if you're - through harvest you got a rain event or you had some pinched or sprouted grain, something like that, you could go to the silo or you ring AWB up and you say, "Look, we've got this quality issue," and they used to develop a receival with - in conjunction with GrainCorp, using their sites, they'd develop a receival quality grow for that to go into, like the HS - the high screenings grain or whether it be shot and sprung or a special GP grain. Because they know if they've got a stack of that sitting there they could blend it with some other stuff that mightn't be quite as bad and bring it up to a standard, pass those profit, back onto the pool operator, the pool participant.

DR CRAIK: Does anybody buy that sort of wheat now?

MR RIDLEY (NSWFA): Of course they do. All good quality wheat, right, as in good quality, not mouldy or dirt in it, been looked after, it's all got a saleable value. The thing is with that guy that I just told you about, if they had taken his wheat in a few months time, six, seven months time, it might have been worth a considerable amount more.

DR CRAIK: But presumably someone - - -

MR RIDLEY (NSWFA): If you market it at the heat of the moment - you can't take it back home because no-one pays him for it there and he's cash-strapped, right, so he wants some money.

DR CRAIK: Yes.

MR RIDLEY (NSWFA): Now, AWB or the national pool manager - buy that grain off him and give him - - -

DR CRAIK: So what is he going to do with it now, that's what I - I mean what I want to know is what's the alternatives for him now?

MR RIDLEY (NSWFA): Well, he'll just have to store it at home until the heat goes out of the harvest pricing and they'll be some pig farmer or a chook farmer somewhere that will suddenly decide, "Oh, this wheat is worth a bit of money to me. I'll give him a decent amount for it."

MR HOSKINSON (NSWFA): The thing to realise is with increasing debt loads each farmer is experiencing from the drought, a lot of the time they're under a lot of pressure to try and get some cash flow at harvest, and buyers know that. They know that if you put a price up there, and it doesn't have to be a fantastic price, some people are going to have to sell some of their grain to reduce some debt. The banks are watching the whole time, they know what is coming into their accounts, and it

has made them extremely nervous, because it makes it very hard for them to benchmark budgets and everything else that goes along with it.

So with the national pool you had that stack there that you could deliver into, you got your 80, 90 per cent first advance, and that's cash flow, and that means they're not taking the price at harvest, they're taking the price that's done over an 18-month period. We have got an example now, as mentioned before, about what is happening with the northern hemisphere harvest. Over a two-year period you can watch the markets. There was an opportunity two years ago to get in at \$400 a tonne, we could have extracted some good returns out of that, but that was market lost through government interference, and the only ones that are suffering are the farmers.

MR RIDLEY (NSWFA): There was a question there a while ago about the difference between a number of small pools and the big pool, and one big difference in that is the first advance of money you get. The smaller pools are only offering 60, 70 per cent, whereas under the national pool we used to get 85 per cent of the money at harvest time.

MR HOSKINSON (NSWFA): That has a dramatic effect on the flow-on to the local communities and infrastructure as well, because that money goes out and starts paying bills in the town. We have got a lot of chemical suppliers and vets and whatever else out there, your farm input supplies, they're carrying massive debts, a lot of those are carrying huge debts on behalf of their clients and they'd like to see some of those paid off after harvest.

With the delay in the selling structure that has been forced upon us now, we're trying to sell down, the banks have become the default pool advance; because, see, the first port of call when you know you can't sell your grain at harvest time, the first thing you do, is go to the bank and say, "Can you extend my overdraft for six months?" and they'll say, "Well, we need to watch every dollar you spend from now on, because you're at the end of your overdraft," and you only borrow enough to get you through the year, you don't try and borrow enough for two years. So when you've been forced to hold your grain for an extra three months past harvest because the prices have dropped, then it comes back to a financing thing.

Like I said before, the national pool had a triple-A rating, it could offer a good rate, it had been working on behalf of the growers. With the loss of AWB from any grower, that was built under what was the wheat industry farm, which was put forward by growers, and through that there developed some very major IT programs for marketing grain and logistics and everything that went with it, that has all gone with that company now. Everything we had in that company has gone through deregulation, because we have lost track of all that intellectual property that could

have been of great benefit to the industry, especially in logistics, with all the dysfunction we have got in logistics now.

DR CRAIK: Presumably that was a function to corporatisation of AWB and change in the share structure.

MR HOSKINSON (NSWFA): Yes, it had a huge effect, from losing the vesting powers in the national pool.

DR CRAIK: Presumably there's a whole range of different products around, there's brokers, there's people who are prepared to do the marketing and the trading, be a link between the growers and the traders. Are there a lot of things on offer that growers are taking advantage of?

MR HOSKINSON (NSWFA): There is. It all comes to the cost, big cost. There was an interesting article written by Malcolm Bartholomaeus a few weeks ago, actually he has a graph set up there and I'll submit that, showing where growers would have been if Australia took such-and-such a step, or if they hadn't have, and the returns from if they had done different things, and the scenario was that they wouldn't have been much better off in a lot of cases.

But the risk involved with individually going out into the big market and saying, "I want to go to my bank and I want to borrow \$100,000. I want to hedge my wheat crop. I only want to do 50 per cent, because I can't take any more risk than that," or, "just hedge the cost of production, say, 10 or 20 per cent," you've got to go and borrow that money, then you've got to go and hire these people, or take the risk yourself, and with the average age of farmers being over 55 they have either got to go back to school and learn the hard way how to do this or get professionals that will do it for a cost. There's no guarantees with them either, that they'll come back with a return for you, they admit that they can keep an average, you'll have your losses and you'll have your gains, but it will just come in with a small average; compared to the risk we're facing now by not having a national pool to do it for us.

As I said the national pool had a floor, an ability, just devoted to marketing grain, they had people all over the shop marketing our grain on behalf of us throughout the year; they manned the phones 24 hours a day, doing hedging and everything else and they kept a constant eye. If you're a mixed farmer like myself, you've got sheep to worry about, you've got your crops to worry about, you've got your family to try and spend time with; and what has been forced upon us is you've got to spend most of your time in the office, you get up first thing in the morning, you go straight up to your computer, put your computer on, check the prices on offer for that day, you go out, you do half a day's work, you come back in and you do the same thing again, and you're getting SMSs throughout the day with wheat prices. As

John said, they change regularly.

So if you want to concentrate on doing something where you're risking your farm's future by making a mistake while you're under pressure, for shearing or something like that at the time, no-one in their right mind would want to expose their business to that sort of risk, and that is what has been forced upon us; because we had someone entrusted to do it for us. We believe that a grower or owner controlled entity, if it was set up again, could deliver that.

DR CRAIK: Okay. In your submission you talk about the Wheat Export Authority and accreditation and things. How have you found WEA? Do you think it has provided value, that it's useful?

MR HOSKINSON (NSWFA): You have to have it there to do the accreditation of the exports, you just can't have it open slather, because you don't know who is going to be doing the growing. We have seen growers with local traders go belly-up and cost them a lot of money. I had one trader come up to me on Henty Field Day, said he'd lost \$46,000 from a grower who was trading while he was insolvent and went broke and took his money with him.

DR CRAIK: It was a domestic trader, presumably.

MR HOSKINSON (NSWFA): That was a domestic trader. But you could have the same thing. The government says there's no guarantees with the money. As soon as you drop your grain into the hopper at the silo, you lose control of that grain. What we need to see, through that agency, is to make sure that the people who do export grain are reputable companies and they have got a track record. We also need to know that, through detailed research that WEA does, it can check their financials and then make sure that they are bona fide and they have got money there to back themselves up.

We also would like to go actually a step further. We want to see them benchmark to the other pools that are on offer today. The organisation at the time used to benchmark the national pool, and they have just come out with the final report, of which I have only seen bits and pieces of today, but they actually gave a report. We want to see them do it with the pools that are on offer now, which we have been reliably told can be done, and WEA have said that they'd like the opportunity to as well; that would give more security. To have them removed and not have any regulation whatsoever would be detrimental to our survival, I believe, because it would just open up a box of worms.

DR CRAIK: If WEA did continue and did get the job of benchmarking the pools that are on offer at the moment, do you think farmers would be prepared to pay a

higher levy to cover that? It's at 22 cents a tonne.

MR HOSKINSON (NSWFA): Yes, now it has been initially set up for the first one or two years - - -

DR CRAIK: Well, WEA exists until the act changes I guess.

MR HOSKINSON (NSWFA): It should actually be cheaper now to do what they are set up to do.

DR CRAIK: As we understand it, some of the requests to exporters for information under their renewal accreditation have required more effort from the exporters than the initial application. So I'm not sure that the costs are less, I guess is what I'm saying.

MR HOSKINSON (NSWFA): I'm not aware of that.

DR CRAIK: We have to ask them that when we talk to them. But would growers be prepared to pay if there were an additional cost, if it wasn't able to be funded under the existing 22 cents a tonne?

MR HOSKINSON (NSWFA): I'm not sure on that one. If you had a national pool, one operator, you probably wouldn't need to have an onerous organisation sitting in on it.

DR CRAIK: But in the event that you didn't have a national pool and you want them to benchmark the pools that are on offer. I mean, everything costs, that's the problem.

MR HOSKINSON (NSWFA): I think it would be too great a risk not to have them there regulating the system, especially if they can benchmark the pools on offer and make it look like they're actually giving some direction to who we can turn to, as far as a trustworthy pool operator.

MR MASON (NSWFA): I would have thought the accreditation process would have been less rigorous as we moved forward.

DR CRAIK: That's not the message that we're getting.

MS MacRAE: That was what we were anticipating here, but most of the - - -

DR CRAIK: That's not quite what we're hearing.

MS MacRAE: Well, of the ones we have heard from, they're saying - - -

DR CRAIK: We still have to go back and talk to WEA about this. But that's not the message that we have been getting.

MR HOSKINSON (NSWFA): Of course those actually having to participate in the - - -

DR CRAIK: Of course they have a view too - for a reason too.

MR HOSKINSON (NSWFA): Yes.

DR CRAIK: Of course. You do suggest though that the fee for the reconsideration, which is a fee presumably paid by the exporter, should be waived, the \$3000 fee?

MR HOSKINSON (NSWFA): That's for challenging - - -

MR MASON (NSWFA): Yes. No, that's anyone that wants to apply to have the licence of the exporter reconsidered currently has to pay \$3344.

DR CRAIK: So like a grower could challenge?

MR MASON (NSWFA): Yes.

DR CRAIK: Okay.

MR HOSKINSON (NSWFA): So for example if I wanted to - if I knew - I'd had a bad experience with a trader - - -

DR CRAIK: Yes.

MR HOSKINSON (NSWFA): - - - who is an exporter, if I wanted to lodge that complaint so that they should have their export licence removed, which is going to cost me \$3000 for the privilege of doing it.

DR CRAIK: Okay. I didn't realise that's what that fee was. Have there been any challenges, as far as you're aware?

MR HOSKINSON (NSWFA): I was approached by one grower and as soon as he saw the price he said, "I'm not going to go - - -"

DR CRAIK: He said he's not going to do it?

MR HOSKINSON (NSWFA): Not going near it.

DR CRAIK: Yes, okay. Have you had any reports of growers having problems with exporters? Obviously this particular one did, I would say.

MR HOSKINSON (NSWFA): He had a personal relationship. He didn't agree with the way he was treated by that trader. But personally in my position as New South Wales Farmers' current chairman I haven't had any complaints, no.

DR CRAIK: Yes. I suppose that's - - -

MR RIDLEY (NSWFA): This system hasn't been really tested all that well yet, which is one disappointing thing, I guess, of the timing of this review because we sort of felt that, you know, it would have had a couple of good harvests under its belt and unfortunately of course along the eastern seaboard we've been subject to drought conditions again. So it hasn't come within a bull's roar of being tested, this system, as far as what it's capable of handling.

DR CRAIK: On the issue in relation to port access, have you experienced any difficulties with farmers or heard of any difficulties with farmers trying to take their grain straight to port as opposed to - - -

MR HOSKINSON (NSWFA): Last year we did. We had numerous complaints coming to the association, especially with Newcastle port. There was a lot of problems there. Some ports like Port Kembla under their licence to be there they only allow so many road movements a day to actually deliver grain into them. So if we sit with a fee of \$56 a tonne up-country to deliver grain into Port Kembla and we can do it for \$40 a tonne by truck - the option is not there for us to do because there's a restricted - - -

DR CRAIK: Restriction on the number of trucks going in, yes.

MR HOSKINSON (NSWFA): So if you can imagine that a lot of those seaports are in high density - the last thing they want is B-doubles running past their front door 24 hours a day running a 40,000 tonne shipment into a ship. 80-odd thousand tonnes along one line out there would take all year and trucks running 365 days with so many trucks a day to get the movements there. It just defies logic that we've got a rail system and we've lost that ability to have that logistics run smoother because we've lost the national pool which used to handle the logistics in getting the grain out in a timely - and a quality. You know, suppliers never complained. We'd have minimal complaints about supply out of Australia under the logistics of the national pool. Now we have this dysfunction in the whole thing that's turning our buyers

away from us, because why would they want to come and buy grain off us if they can't get it out of the country on time in the right quality? So we've had Indonesia, we've had South Korea and we've had Japan all complain strongly about the dysfunction in our market. We've got Egypt just recently decide to buy a lot of grain out of the Ukraine, Black Sea countries because - - -

DR CRAIK: So these countries that have complained, who - I mean where can we follow - I guess have you got a clue where we can follow this up?

MR HOSKINSON (NSWFA): It has been reported in the media, so I suppose - - -

DR CRAIK: Is there any way, Ben, you could give us media references to that so we could chase that up? I mean we'll try and chase it up ourselves but if we get references to that so we can follow that up, that would be useful, because I haven't heard personally of those things and it's just helpful to - - -

MR MASON (NSWFA): Okay.

DR CRAIK: Short of going and canvassing all of Australia's Customs. That would be useful. On the port access stuff at the moment, just going on this port access stuff, presumably you support the notion of the undertakings that the bulk handling companies have to impose if they're also marketers?

MR HOSKINSON (NSWFA): We do, but as John said, it has to be tested. However, we've got to get grain to be forced through those ports. As I said, we used to have 18 months to get that grain out of those ports in a controlled, logistical manner. Now the - as we clearly warned the government before deregulation they're all going to want to supply the supplier - their end-users on time in a short of period of time, the first six months after harvest. So they don't want to be attracting storage and handling fees. They want to get it out of the country.

This is where a lot of the dysfunction came about, was purely because we had a lot of exporters wanting to export grain and get it out of the country. It just became a nightmare. We saw it at Newcastle, we saw it at other ports where we had a parking lot of ships out to sea and submarines, which they call them, just turn up to get loaded, which was a thing of the past under the old system. You wouldn't have ships just turning up out of the blue to be loaded and then waiting for a slot to come in to get loaded. So we're getting those ships turning up and the demurrage costs have been passed on to the growers. A number of the companies - every company I know would factor in unforeseen demurrage costs into the price on offer on the board for that day. They don't allow to absorbing it themselves. It's all allowed for in the price they offer.

So it's yet to be tested. It all comes down to the onus of proof. If one company - if was an exporter, an accredited exporter and I wanted to move grain through a port, any port in Australia, and I found it difficult to accumulate my loads at that port for some reason or another, and if I want to make a complaint then it's up to me to prove to the ACCC that I've been wrongly done by. It's my word against theirs. So it has got to be tested. Until there is the first challenge to the system it's going to be hard to know whether it's effective or not.

DR CRAIK: Do you have a view about the fact that the Melbourne Ports terminal didn't have to have an access undertaking whereas all the others did?

MR HOSKINSON (NSWFA): I'm not aware of that.

DR CRAIK: Melbourne Ports, WEA decided that because Melbourne Ports isn't also a trader in the way that GrainCorp and Viterra are and CBH that it didn't have to have a access undertaking. So there's one port out of eight or whatever it is on the east coast that does not actually have to have an access undertaking.

MR HOSKINSON (NSWFA): I'm sorry, I wasn't aware of that.

DR CRAIK: Okay. I just wondered if you had a view.

MR MASON (NSWFA): So who operates - - -

DR CRAIK: Well, it's interesting because it's a - Melbourne Ports terminal is a combination of - I think it's 50 per cent AWB and 50 per cent Sumitomo and Viterra; I think, would make up the other 50 per cent. Then there's a separate company Melbourne Ports Terminal which is separate from those two but they're the owners of - Melbourne Ports Terminal is the operator but the ownership is divided, just as I mentioned.

MR MASON (NSWFA): It's interesting they don't have to provide an undertaking.

DR CRAIK: No, they don't.

MS MacRAE: No.

DR CRAIK: WEA decided they were sufficiently arm's length in that case not to demand an access undertaking. Okay. Have you got anything else at the moment?

MS MacRAE: There's a - well, we're still talking about access and you've raised concerns here that many of the fees and charges that are set by the bulk handlers that are port operators, so the guys that have the access undertakings, that at their port

facilities there is not a fair representation of the usual historic, commercial rates. I just wondered if there was a - well, if you could give me some examples of that, and to the extent that that is a concern is - I guess we've talked a little bit about, as you've implied just there that there's a problem there. If you think that they're not commercial the access undertakings do purport to give you a mechanism to complain about that and that the ACCC is prepared to look at those things if they see they're - under their non-discrimination clauses that they shouldn't be charging you something that's not commercial. So I just wondered if you could give me some examples - whether - how widespread you thought that problem was and is there a problem with the - if I can call it dispute mechanism or the complaint process you can go through under the undertakings where you feel those fees and charges aren't fair or aren't commercial?

MR MASON (NSWFA): Well, the cost of delivering grain to - - -

MS MacRAE: Sorry, this is page 9, if that helps you, is where I'm looking.

MR HOSKINSON (NSWFA): In our submission?

MS MacRAE: Yes, page 9, your paragraph 3 there. It's actually in the little pull-out box there as well. The point that many of the fees and charges aren't, you think, commercial. There's a requirement under the act - says undertakings, that they should be. So I guess what I'm asking you is how widespread do you think the problem is and is the reason that no-one has complained about it, I suppose, because you feel that the mechanism to do that is too difficult under the undertakings?

MR HOSKINSON (NSWFA): Well, a specific example is listed there on page 9 where there's a certain bulk handler in its storage and handling agreement clause where the interest rate applicable under that clause is a rate which is 6 per cent above the bank bill buying rate for bills with a tender of 90 days quoted from time to time by NAB. We understand that in most industries the commercially accepted rate is 2 per cent above the 90-day bank bill.

MS MacRAE: I guess what I'd be saying is, is anyone likely to test that with the ACCC?

MR MASON (NSWFA): Has that been adequately addressed in the bulk handlers new undertakings to ACCC, those concerns?

MS MacRAE: The access undertakings say where a bulk handler has a charge that's different for grain entering from services that are not their own that the only justification they can have for doing that is if there is a commercial reason for doing so.

DR CRAIK: Like an additional cost or something.

MS MacRAE: Yes.

DR CRAIK: Yes. Maybe it's the difference between credit card interest rates on unpaid balances and, you know, interest rate on a housing loan or something, I suppose.

MS MacRAE: I guess I'm taking it from the opening part there that talks about many of the fees and charges being set. I'm taking this as a single example. But I took it that the "many" meant that this was one example but that you had much more widespread concerns about it. I mean, that example is kind of helpful, but I suppose it was more how widespread is the problem and whether you felt there was recourse enough where that happened for you to be able to - - -

MR MASON (NSWFA): It does extend to their storage and handling fees. If it's related to an up-country storage facility, those fees will be cheaper than a business that can perhaps identify a cheaper pathway to market, at the moment either through truck or direct from farm to port. They will be charged higher fees - - -

DR CRAIK: At the port.

MR MASON (NSWFA): - - - for storage and handling than they would have been if they delivered to an up-country receival site.

MS MacRAE: One of the things we were hearing from GrainCorp this morning was that some of the reason for that is that they can't be sure of the quality, so they'll do an additional check, and so there's an additional cost for them in handling that grain, and they'll pass that on. But are you saying it's above that, that the charges that they're imposing are unreasonable at that point?

MR MASON (NSWFA): Yes.

MS MacRAE: Okay.

DR CRAIK: Yes, because they're saying there's also a storage risk, because at the port there's not that much storage capacity and they may not have the storage capacity for the segregation at that time.

MR HOSKINSON (NSWFA): Especially if you've got people trying to accumulate loads out of port.

DR CRAIK: Yes.

MR HOSKINSON (NSWFA): For instance we were in a Melbourne port a few years ago and a train turned up and it had a load of weevils on it, so I shut the silos down for two weeks while they were fumigated. So things like that have a habit of jamming up the works, and in a deregulated industry that makes it even harder with logistics, accumulating load for ships coming in at the port.

DR CRAIK: I guess we should think about winding up. Do you have any more questions?

MS MacRAE: No.

MR HOSKINSON (NSWFA): Can I just point out that the grower delivery summary at the back of our submission was prepared by a grower - he offered it to us to use because he was very concerned about what he was losing - because I was busy harvesting at the time. He has done it in shorthand at the back, and my copy is readable. So if you any problems reading it - - -

MS MacRAE: I think we do have a legible copy.

DR CRAIK: I think we do have one.

MS MacRAE: It's just with the ones that we received.

MR HOSKINSON (NSWFA): It just demonstrates - using the matrixes, and we have supplied the other ones as well - just what he's lost, in a small harvest, and a drought-affected harvest; what he would have gained and what he's lost with the additional freight rate, that he wouldn't be normally paying under a regulated system.

DR CRAIK: Yes, no, that's really useful and we will take the time to go through all that stuff so we can understand it.

MR HOSKINSON (NSWFA): He's just one grower of many that lost out.

DR CRAIK: Yes, no, but it's useful to have real examples, because then it backs up the statements and we can go through it and have a look.

MR RIDLEY (NSWFA): I think, in hindsight, one of the things that was handled poorly was the minister set up an expert group to look at doing a lot of the functions that AWB had done before, and NACMA, or Grain Trade Australia, as they are known now, were given the role of performing a lot of these things. But Grain Trade Australia is an association of traders. They have let some grower representation onto

their committees, but we are a voice in the wilderness really, there's only two or three growers, and there might be in the room a dozen of the traders represented.

When it comes to freight rates and handling charges and even the setting of our grain standards, receival standards, it hasn't been successful. I think certainly the receival standards should go to someone who can make the decisions on site typically, decisions be scientifically based, and certainly with the freight and handling there needs to be some independent body.

DR CRAIK: Shouldn't the receival standards be based on what the customers want?

MR HOSKINSON (NSWFA): That's exactly right.

DR CRAIK: Shouldn't that be the basis?

MR HOSKINSON (NSWFA): We used to do that, national pool operators, we were out in the world talking to our customers, developing mills and helping them actually mill their grain and to look at their quality and set their mills up to maximise their extraction, the flour or whatever else they were doing. Under the current system we have no-one out there providing that and showing those customers. We had AWB building facilities and helping them build mills; that has all stopped.

That was one of our biggest things, we had a very strong relationship with our end users, our buyers, because we had that ability to actually show them how to maximise. We had countries like Iraq and other countries over there used to buy Australian wheat because they blend a rubbish foreign wheat to a standard where the bread would actually stick to the kilns when there were making it and it wouldn't drop into the fire; and they wouldn't have riots in the street because they had Australian grain. Whilst Australia was out of that market there was a lot of dysfunction as well, because they didn't have the quality Australian grain and they're doing it - - -

DR CRAIK: Wasn't that AWB's responsibility that we ended up being out of the market?

MR HOSKINSON (NSWFA): Has it been proven?

DR CRAIK: I think it has been, yes.

MR HOSKINSON (NSWFA): No-one has been charged.

DR CRAIK: They have been charged perhaps, but not convicted.

MR HOSKINSON (NSWFA): Can I conclude by saying that this industry in the whole is there for the growers, it's the growers that have to survive to continue the wheat export industry out of Australia. If we can't maximise our returns and be a sustainable farm entity and if we continue to be hit with supply chain cost and dysfunction, it will put us out of business. It's going to be welcomed by our competition overseas. We have seen American farmers very happy about the way we have fallen into disrepute and dysfunction here, because it has clearly opened up markets for them where they didn't have access before and they were out of the competition.

I know we have got to try and dig up some information on some of the statements made by some of our buyers, but clearly the dysfunction has cost us good markets. When we do return back to normal production years, we want to have those markets there to absorb our grain. You can listen to all the other traders and the handlers and all the other people, what they have to say, they're in it to make money for their shareholders; we're in it for our families, a lot of us have been there three or four generations doing the same thing, and proud of it. We're experts in our job. But we're going to be put out of business, squeezed out, purely because we don't have an efficient supply chain and we're not getting a sufficient price for our produce that we produce.

We can't compete with having to go out in the market and buy a half-a-million-dollar header to harvest our grain and only get \$200 a tonne for our grain and be paying \$50 a tonne for freight; and all the other dysfunction going on. So I would encourage the commission that they look at what the industry is, and that is a tradition of a family-owned farmer group that are actually out there trying to strive to make a living and export out of Australia, and that's going to deteriorate if we continue down this track we are at the moment. Thank you.

MS MacRAE: Thank you.

DR CRAIK: Thanks very much for coming in. Thanks very much for your submissions. Thanks for all the information you've given us and that you're going to give us, and we do appreciate you coming today. So that ends the hearing today. I adjourn these proceedings.

AT 2.37 PM THE INQUIRY WAS ADJOURNED ACCORDINGLY