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PRODUCTIVITY COMMISSION

DRAFT REPORT ON WHEAT EXPORT MARKETING ARRANGEMENTS

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

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY ON TUESDAY, 11 MAY 2010, AT 9.32 AM

Continued from 3/5/10 in Perth

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DR CRAIK: Welcome to the public hearings for the Productivity Commission into wheat marketing arrangements following the release of our draft report in March. My name is Wendy Craik and I'm the presiding commissioner on this inquiry and my fellow commissioner is Angela MacRae.

The purpose of this round of hearings is to facilitate public scrutiny of the commission's work and get comment and feedback on the draft report. Prior to this hearing in Sydney we've had hearings in Melbourne and Perth and hearings will also be held in Adelaide next week on Monday, 17 May. We will then be working towards completing a final report to government by 1 July 2010, having considered all the evidence presented at the hearings and submissions, as well as other informal discussions. Participants in the inquiry will automatically receive a copy of the final report, once released by government which may be up to 25 parliamentary sitting days after completion.

We like to conduct all hearings in a reasonably informal manner, but I remind participants that a full transcript is being taken and for this reason comments from the floor cannot be taken, but at the end of proceedings for the day I'll provide an opportunity for any persons wishing to do so to make a brief presentation. Participants are not required to take an oath but should be truthful in their remarks. Participants are welcome to comment on the issues in other submissions. A transcript will be made available to participants and will be available from the commission's web site following the hearings. Submissions are also available on the web site.

I would now like to welcome our first participants, David Ginns and Nigel Hart, who will be appearing for GrainCorp. If I could ask you to introduce yourselves and say the organisation that you're appearing for just for the record on the transcript, thank you. If you have a few opening remarks, we'd be pleased to hear them.

MR HART (GC): Nigel Hart, GM - Ports for GrainCorp.

MR GINNS (GC): David Ginns, manager corporate affairs, GrainCorp Operations. Thank you, commissioner, we appreciate the opportunity that you've given us to come along and publicly respond to the draft report. You will have received, and I know it's up on the web site, our submission. We don't really have any formal opening remarks. We anticipate that you may have some questions for us but we just really want to point out that we appreciate the comprehensive nature of the draft report put together by the commission and we certainly believe that the consultation process so far has been adequate and does represent the breadth of opinion within the industry across the matter of regulated wheat exports.

Just in, I suppose, summary we agree with the bulk of the recommendations

put forward by the commission in the draft report, however, we did diverge on two issues, one was the timing of eventual deregulation. We have proposed on page 4 of our submission an alternate deregulation time line and, of course, we did diverge on the matter of the continuation of regulation of port access beyond the date of the repeal or suggested date of the repeal of the Wheat Export Marketing Act 2008. We believe that there is no call for the decoupling of regulation of port access from the accreditation under the act. We maintain that we would not have a regulated access regime were it not for the act and the access test under that act and we believe that once the reason for that regulation is taken away, ie, the access test, then the regulated access regime should also be taken away. I suppose it's a cause and effect scenario that we're talking about there. That in summary basically encapsulates the position of GrainCorp.

DR CRAIK: Thanks very much and thanks very much for your submission. I'm sure we'll have a few questions to ask you as you say. We should talk about access first because that's the access undertakings and the whole general area because I guess that's one area where you do diverge from our view. Your suggestion is that we remove the whole lot in September 2012 - - -

MR GINNS (GC): Yes.

DR CRAIK: - - - rather than moving accreditation to 2011 and keeping access undertakings until 2014. A couple of questions fall from that. The commission's view and certainly in the draft report our view was that while accreditation had certain transitional benefits, the ongoing benefits are minuscule and there are some costs - admittedly they're not great but there certainly are some costs and I don't think you disagreed with that particularly - - -

MR GINNS (GC): Correct.

DR CRAIK: - - - and so we couldn't see any point really in keeping it any longer than was necessary. Whereas we felt that the transitional arrangements for access again were very useful in the transition but we felt there still things to be sorted out in relation to port access that were going to take longer than, say, things in relation to accreditation. I guess from submissions that we've received that would appear to be borne out. We've got a submission from Glencore which you may or may not have seen - I think it went up yesterday on our web site - which suggested that they had used your services quite significantly in the past but they had some difficulties, I suppose, in the last year and then when they invoked the access dispute provisions under the access undertaking then things were able to be resolved very quickly. That's essentially what they say in their submission and the dispute resolution provisions under the access undertaking enabled them to resolve that pretty quickly, so they were quite pleased; they were there enabling them to sort it out.

MR GINNS (GC): Obviously they would be pleased because they essentially got what they were looking for out of the negotiation by waving the big stick and that's fine. We would say that all of the parties that we service with elevation services have now signed two-year agreements which is something significant. Yes, we acknowledge that in the process of adjusting to the new regime and adjusting to a new regulatory regime that covers port access that there was actually some adjustments to be made on both sides. We've acknowledged that. We've actually made a lot of concessions and a lot of adjustments. We think we've got a very fair, transparent and commercially viable system of port access now and that's validated by the fact that we have got those signed agreements with all parties.

Just with respect to the timing, we acknowledge the transitional arguments that were talked about in the draft report and essentially what we've done in suggesting the 30 September 2012 time line is acknowledge that we are still in a transitional period, not just from the way the market has operated. I think the commission observed this in its report. The market was able to adjust very, very quickly and that I think is primarily a testament to the high level of marketing competence, particularly in the grower section of the industry and they, from our observations, actually adjusted at a greater speed and with greater efficacy than many others in the industry. That wasn't, particularly to my mind, particularly unusual or unexpected.

So picking up on that transition theme, what we have done by suggesting 2012 is do two things: allowing the industry to normalise and mature for a little bit longer whilst the comfortable hand of the regulation and the industry regulator is there but also pick up on that element of fairness where we really should be looking at two principles when it comes to applying regulation. We should look at regulation that applies to the rest of the economy, and here we're talking about the Trade Practices Act, and we are yet to see any justification of why we need special access regulation for port terminal access, when, I think as the commission has already said in its draft report, that Part IIIA of the Trade Practices Act is adequate in the rest of the economy and there's no reason why loading vessels with bulk wheat should be any different to that.

We also believe that it's fair that any regimes that apply under the current act should all finalise at the same time because to not do so would be quite anomalous to our mind. When we get to September 2012, we're going to see quite a higher degree of maturity in the industry, a higher degree of maturity between the way in which commercial organisations interact and are able to agree with each other at a commercial level and I think you see every week improvements in that.

DR CRAIK: Thanks. I guess as far as we're aware, I think a lot of the marketers are still in the process of negotiating the port access protocols with other bulk handlers, so I think that - -

MR GINNS (GC): We can, commissioner, only comment from our perspective and it's nice to be at the front because we really have, in all seriousness, set out to take a very commercial perspective towards this but also one that is respectful of our customers and understands that we are going to have to be a service provider to these organisations in the long term; so sitting down, accepting that the regime is the regime, not fighting against it and coming up with commercial arrangements, and we've done that.

DR CRAIK: Assuming the government accepts our recommendations or some recommendations and ultimately the access test is no longer applied and things did revert to the TPA, would you see - and I notice you've suggested a code of conduct be agreed between all the bulk handlers - is that a voluntary code or is that some kind of code under the TPA? That's the first question. My second question would be: what is GrainCorp likely to do? Is it likely to revert to offering only excess capacity to other marketers under the TPA or would it continue to offer total capacity?

MR GINNS (GC): I think we made it very clear in our submission that we would continue to offer access under the terms that we are at the moment.

MR HART (GC): Just to put it into perspective, when you talk about our capacity, our elevation capacity is around 15 million tonnes per year. Average exports out of the east coast of Australia are around three to five million tonnes. The argument we've always put forward is that there's a greater commercial imperative for us to enter into commercial arrangements with exporters rather than being driven by regulations, simply because we've got an asset there that needs to perform, having been involved in negotiations with our customers. The reason why we have concluded it is that I think the commercial imperative on the east coast is somewhat different to South Australia and Western Australia. I think a lot of the arguments that get put forward may be relevant for Western Australia and may be relevant for South Australia, but certainly I think from an east coast perspective with the competitive dynamic that we have in terms of competing export facilities which aren't regulated, as well as the significant export container trade, we do need to have our commercial protocols and agreements in place that will attract that business to our facilities. It's not in our interest to seek to exclude anyone from those assets simply because the volumes are so small for the asset capability that we have.

DR CRAIK: The code of conduct, is that just the voluntary one you're talking about?

MR GINNS (GC): It's somewhat ironic - and I think as we pointed out in the submission - that people are now talking about a code of conduct, when GrainCorp and ABB, as it was then, and CBH during the process leading up to the Senate inquiry said, "Here is a code," which strangely enough largely is replicated in the current undertakings with the ACCC, that we suggested at the time should have been

included as part of the accreditation process and that would have probably saved us all about \$5 million collectively. But putting that aside, I think what we have said in the submission that we would seek to put the provisions of an access code, as it were, within the contracts that we would sign with our customers for provision of elevation at port, so it would become a matter of contract obligation for us to provide the sort of service that we're talking about. Now, we're still taking legal advice on how you can structure a "voluntary" code of conduct and have accountability there, but on initial examination, including it as part of the contract that is offered to everyone, the basic form of the contract gets us the majority of the way down the pathway.

It's also interesting to note that some of the transparency measures, we'll call them, that have been put in place for the current regime - the public shipping stem, the available capacity information that we send round to customers every day - has actually brought some increases in efficiency in our own business and that has been a benefit. Basically what I'm taking about here is that it makes it easier for customers to see what capacity are available at Nigel's port, so they're more efficient in the way in which they plan their export activities. I don't believe that we, as an organisation, would be interested in going backwards from there because we wouldn't want to lose the efficiency gains that we've managed to achieve.

DR CRAIK: Okay, thanks.

MS MacRAE: So just in relation to that code that you talked about that had sort of been agreed prior to the regulation, if I can put it in these terms: what sort of sanction might have applied had you not complied with that code? I mean, I guess from the traders' point of view, this has been their prime concern. As you said, under the current arrangements, Glencore could wield this big stick and come in and effectively from their point of view give them more bargaining power. What sort of sanction would you see applying, both I guess under what you'd proposed for July 2008 and then, under what you're now proposing, as applying from 2012?

MR GINNS (GC): What we had proposed was that adherence to that code was part of our accreditation requirements. We knew that the Department of Agriculture, Fisheries and Forestry essentially had two versions, if you like, of an access regime, one that included the ACCC and one that didn't, and we were arguing very strongly on the basis of cost and inefficiency that a code of conduct that essentially did the same thing as the access undertaking would have been much cheaper to implement, just as effective, and the ultimate arbiter of that would have been when Wheat Exports Australia, the industry regulator, if there was evidence of an organisation such as ourselves not adhering to the terms and conditions of the code, the terms of the code would have been a condition of accreditation and therefore we would have been in breach of accreditation and the industry regulator essentially had the ultimate sanction of removing our ability to be able to export wheat in bulk. Unfortunately we lost that argument.

MS MacRAE: So under that scenario, WEA would have been the only regulator, I guess. I mean, ultimately you still would have had Trade Practices and everything.

MR GINNS (GC): Yes, correct. That was part of our argument.

DR CRAIK: The TPA would have been there underlying the whole thing, but it would all have been under WEMA and WEA.

MR GINNS (GC): Correct, that's right, and into the future, post-deregulation, as I said before, including some of the transparency measures and some of the processes such as the way in which people nominate for capacity. The rules under which we nominate for capacity, we run essentially a first in, best dressed system which a lot of people wanted before they got involved in it, and now because some of the exporters have not been first in, so they weren't best dressed, they're complaining. You can never please everyone unfortunately. But we would seek to continue to have that process because we believe it's fair, transparent and it works for the structure of the industry that we have in the eastern states of Australia. We're not saying that that system would work, for example, in Western Australia or South Australia because the fundamentals of the export supply chain are different over there, and in reverse, we don't necessarily believe that an auction system such as that used by CBH would be most appropriate for eastern Australia.

MR HART (GC): Ultimately, as mentioned before, it's the commercial and competitive aspect of the east coast which makes it for us - I mean, that's the ultimate sanction for us, that we lose business and can lose significant amounts of business. We do have competing facilities. Again, it's a fundamental difference and people keep trying to paint the Australian grain industry as being generic right across the board. The east coast is fundamentally different. We have 40 million tonnes available storage on the east coast with an 18 to 20 million tonne crop and we have significant service capacity, up-country storage and port capacity. So commercially for us, if we went down a pathway of discriminating against our core customers, they would simply use other facilities, go buy containers or build an additional export terminal. It's quite evident that that's what they would be prepared to do. I think that overrides any of the sort of arguments about, "Should you have a regulatory sanction?"

MR GINNS (GC): It's also interesting to note that whilst we've been going through this process that there have been also some significant changes to the structure of the industry. You'd probably be aware that the Dutch company, Nidera, has now entered into the Australian grain market and they purchased Pentag, commodities based, in Toowoomba, and have come out publicly and said that within two years, they want to be trading four million tonnes of grain in the Australian market. We've had Sumitomo exercise their rights in their joint venture with Viterra and AWB in

Melbourne Port Terminal to take control of the Australian Bulk Alliance network and Melbourne Port Terminal. It will be interesting as an aside to see how Wheat Exports Australia deal with that change in ownership and the regulatory impost on Melbourne Port Terminal.

We also have the potential for the US based grains and fertiliser organisation, Gavilon, entering into a fifty-fifty joint venture with AWB for their Australian grain operation. So within the past probably three months, there's been significant movement in the ownership of grain companies and entry of international players into eastern Australia. We're anticipating that that will significantly raise the competitive pressures in this market. It's interesting to reflect on some of the rhetoric that started up in early 2008 about the presence of regional monopolies. I know that I was a vocal opponent of that particular rhetoric at that point in time and there was very little validity in the claims that were made at the beginning of 2008 about that matter and increasingly we see the evidence that that is the case.

DR CRAIK: You seem to have some concerns about separating the accreditation from the access - you know, the differentials, so taking off the accreditation before we recommend taking off the access undertaking - I mean, what the government does is its call - - -

MR GINNS (GC): Correct.

DR CRAIK: - - - but would you see a preferable situation where we recommended keeping the accreditation issue until we get rid of the access undertaking? Would you see it would be preferable to have them both aligned? Would that be a preference situation from your point of view than our delinking of them?

MR GINNS (GC): That is one of the reasons why we suggested 2012. Our basic position is that the regulation, as it stands, adds very little or nothing, other than a comfort factor and we acknowledge that there are parties in the industry who believe that we still need that comfort factor there. We're acknowledging that and saying, okay, for the sake of a continued, controlled and sensible transition, which is what we've had since the middle of 2008, let's continue the process until we get to September 2012 where the normalisation should be complete and then we should remove all of the vestiges of this unusual regulation of this particular part of the economy and then rely on the regulations, such as Part IIIA of the Trade Practices Act or section 46 with misuse of market power, that applies to the rest of the economy. The argument has not been made successfully in either this debate or in previous debates as to why the grains industry, let alone the wheat section of the grains industry, should be treated differently from any other sector of the economy. There's been no cogent argument to sustain that position.

DR CRAIK: I think that would be a no to my question.

MR GINNS (GC): I think that probably would be right.

MS MacRAE: You said previously that you wouldn't have an auction system here. Auctions work well when you do have problems with capacity and you've got these peak loads and you're trying to deal with them and all that. So are you saying an auction system basically isn't necessary on the east coast because of that capacity issue? It's never really a concern in terms of having such a load that you couldn't throughput whatever comes to you in the time that shippers might require?

MR HART (GC): No. We don't see it as a significant issue. You only have to look at how our stem has shaped up this year. The capacity report that we send out to customers every day of the week, you know, there's surplus capacity every day of the week for export customers.

DR CRAIK: But you haven't had a bumper crop since deregulation, have you, on the east coast?

MR HART (GC): Last year we exported five million tonnes. In certain markets, say, in Queensland last year where the majority of it was exported from, it was considered a bumper crop. But still in that market, we didn't need an auction system. The capacity was allocated in a fair and transparent manner. Exports, there certainly wasn't any significant delays in exporting that crop. One of the biggest factors inhibiting export efficiency is really around rail availability more so than port capacity and from a market perspective, we would hope that - you know, as a company, we've taken on a significant take or pay risk with rail. We would expect that other players in due course will potentially make that investment to again secure their capability around getting export tonnes out of the country.

MS MacRAE: Just then in relation to how you do ration - that's probably not the word - but put out your shipping slots, do you have a booking fee?

MR HART (GC): Yes, we do, \$5 a tonne.

MS MacRAE: One of the issues we've had raised - and I have to say it hasn't been directly in relation to your operations but it has been raised in relation to Viterra - is that that fee is not a real fee in terms of the burden on you if you were to book a slot and then not use it given your marketing arm and storage and handling arm are part of the same organisation. How do you respond to that? As I say, it hasn't been raised directly with us in relation to GrainCorp.

MR GINNS (GC): I mean, that gets to the whole argument to our competitors/customers are saying companies like GrainCorp shouldn't be allowed to trade grain because we've got an unfair advantage. In response we say to people,

"We have also the unfair burden of all of the cost imposed of the gigantic network that we have to maintain and if they would be happy to share some of that risk on a take or pay basis with us, we would certainly welcome that," but they seem very reluctant to do that. So putting aside those observations, yes, if you were wanting to run an argument and say, "Well, a booking fee that GrainCorp Trading pays is essentially an internal transfer of funds," we can't deny that because that's the fact and anyone can come to that conclusion but that's not, I don't think, the point.

The point is that we have a very fair and transparent system. It's first in, best dressed. We apply exactly the same rules and conditions to GrainCorp Trading that we do to every other competing organisation and that's been audited several times. We've gone through those audits without any problems.

DR CRAIK: Do you say it's been audited? Was that for the ACCC or - - -

MR GINNS (GC): By WEA.

DR CRAIK: WEA audited that?

MR GINNS (GC): Yes. We're undergoing another audit at this point in time.

DR CRAIK: Of your booking system or of - - -

MR GINNS (GC): I think this is to do with risk management but we anticipate that we will be audited in the management of the port elevation capacity at some stage. WEA has the right to do that and we anticipate that they will exercise that right and, as I say, we have a transparent system that is based on first in, first served. There is a very low threshold to entry, that \$5, and we believe that that's reasonable.

MR HART (GC): One of the characteristics of our market is - I mean, people talk about left pocket, right pocket thing but again it gets back to access capacity on the east coast. We have 20 million tonnes of concrete and steel out there, we have a massive take or pay risk with rail. We have significant port infrastructure that we need to utilise. We can't play games. We need every tonne that we can. I mean, why would play a game with \$5 when the benefit that we can achieve commercially and a return on our assets is much greater than \$5. So our imperative is to get as much grain through our system as we possibly can. There's not that much that goes out of east coast. Again, you've got to create a distinction between what's happening on the east coast compared to what you see on the west coast where 90 per cent or more exported in South Australia or 80 per cent or more. They are different markets.

MR GINNS (GC): We would be quite happy if both Viterra and CBH had as transparent, simple and low cost system as ourselves. Unfortunately, that's not the case.

DR CRAIK: Have you had any access disputes which have had to go to the ACCC for resolution?

MR GINNS (GC): No, we haven't. There was a bit of stick waving by one party that I think you referred to beforehand and that was resolved commercially.

DR CRAIK: Okay.

MR HART (GC): I think the aspects of what we saw through those negotiations wasn't so much - I mean, it's the access issue, it's about the transfer of risk and a large part of the argument initially with some of customers is around sharing despatch demurrage risk and we would say as a service provider really it's a risk that's borne by the actual owner of the grain and the exporter. We provide an elevation service and there are a significant factors which are outside of our control when you're servicing multiple customers which would mean we shouldn't take on that risk. That was primarily the basis that the discussions and arguments around the commercial contracting that we're doing. It wasn't about the technical aspects of an access regulation or anything like that, it was purely commercial.

DR CRAIK: What about liability caps? Was that another one? That's one that wasn't particularly raised with you but it has been raised generally in relation to bulk handling.

MR GINNS (GC): Well, following on from what Nigel is saying, a customer would like to seek to shift all of their risk to someone else. The way the - - -

DR CRAIK: I think some of them would even like to shift just a little bit to someone else.

MR GINNS (GC): I suppose it's an argument of fairness and equity and control and where the risk actually lies. Unlike in Western Australia where they have a notional stock system where essentially you are ordering grain at port, a very large quantity of grain that comes through our port elevators, we have no control over whatsoever until it arrives at the port and we maintain that we should not take on board demurrage risk for vessels when we don't have upstream control of transport, sourcing of the grain or quality of the grain, whether it's infested or whether it's going to meet the export standard to go onto that ship. I think there has certainly been a degree of ambit claimism - if there is such a word - happening and that's all part of that maturation process where people are finding their feet commercially.

MR HART (GC): We have guarantees on outturn in our contracts with regard to the receival standards and so forth. So we take on a significant amount of that risk with regard to grain quality. At the end of the day you can't contract away gross

negligence. Gross negligence is gross negligence. I think people need to distinguish between what they talk about in terms of liability for things which do go wrong from time to time. If we've done something which falls into the category of gross negligence, then we pay for it and we have historically. But, again, we haven't seen this large body of evidence to say that there's all these things happening where people are making claims against us from a commercial/contractual sense. In fact the claims are very, very minor. So, I mean, as an issue I struggle to see why this one has reached the prominence that it has, again based on our own commercial record.

DR CRAIK: Just going back to the issue of sanctions and things for a while, do you see WEA as a very effective regulator? It's certainly clear that a lot of the industry sees that the existence of WEA is very effective in ensuring cooperative behaviour from the players in the industry.

MR GINNS (GC): We would say that from our perspective the need to come up with commercial outcomes is primary in the argument that you're talking about. WEA certainly have a very prescriptive approach to regulation and I think an observation was made to that effect in the draft report. We have said in our response to the draft report that in the spirit of transitioning from the previous monopoly to the regulatory regime that we have now to under our time line, 30 September 2012, that there is an opportunity for the WEA to become somewhat less process oriented in their approach to enforcing the regulation. A good example, and I referred to it earlier, is the current audit that we're undergoing at the moment that relates to finance and risk management.

Essentially what that audit will be doing is auditing a number of compliance activities that, as a listed company, we have to comply with anyway. So it's this element that we referred to in our first submission of multiple regulation where we've got the WEA doing things that are done anyway and there's really no point in doing them in a manner that is just germane to bulk wheat exports because they talk about the whole of the operations of the company essentially and it's regulation piled on regulation.

DR CRAIK: Okay. We might just change tack a bit. In relation to your supply chain, do many marketers deliver direct to port? Do many marketers organise their own supply chain but use your port facilities, use their own or some other up-country supply chain and then bring their own work to port, rather than use your supply chain? Is that very prevalent?

MR HART (GC): Very prevalent. There are companies that have their own rail; there's a lot of road which comes in from other networks, probably 25 to 30 per cent of the grain that comes in doesn't touch the GrainCorp country network.

DR CRAIK: Okay.

MR GINNS (GC): The majority of or all of the grain and GrainCorp grain that comes through our network is all - because we don't have the notional stock system, we have a physical stock system, that is all at the direction of the exporter, so they know where they have grain in various sites across the network. When they're putting together a site assembly plan as part of a cargo accumulation, they actually tell us where it is and when to outturn it and they determine by which method it gets to the port, whether it's by road, whether it's by rail - the rail transport provider, that's then negotiated with a separate part of the company. So the only part of that that we have full control of is GrainCorp's own operations.

MS MacRAE: Would you see that stabilising around that level or do you think it might get bigger or smaller?

MR HART (GC): It varies across the east coast and it varies with the volume. If you look at Victoria, it might be higher than that because again the road freight market - you know, they're a lot closer to port, so you tend to find that there probably is more activity around direct farm to port type deliveries. But as you go into northern New South Wales and Queensland, much longer distances, rail becomes the preferred mode of transport because it's cheaper. So again it depends on which market you're actually looking at and in particular, the point in time. I mean, Fisherman Island is an example last year, getting a lot of road coming in because, again, the road and rail rate; pretty similar as far out as probably Goondiwindi. So that sort of determines primarily what the mix will be in any particular year.

MR GINNS (GC): I think last year at Fisherman Island there was about a million tonnes delivered by road.

MR HART (GC): Yes, 70 per cent came in by road, again from multiple sources, our own assets, ex-farm and ex-other private storers.

MR GINNS (GC): There's also one other variability in that and that is the commodity make-up. Fisherman Island last year, we did a lot of sorghum. GrainCorp is not as big a player in the sorghum market as some others, so our proportion of exports of the 1.6 million tonnes I think that went through Fisherman Island was actually relatively low compared to others. If you look at Victoria, for example, in the barley market, there are actually some players that are bigger than us in the barley market there, so they would have a preponderance of that business.

MS MacRAE: I knew I had one other question and it's just come back to me but it was nothing to do with what you were just talking about. Just in relation to how you see your compliance with the access undertakings, do you feel that there's an eagle eye on you from both WEA and the ACCC and if there is an eagle eye from both

sides, is one sort of firmer than the other and how do you see the relative powers of those two bodies in relation to your access undertakings?

MR GINNS (GC): I think that we would agree that there's two pairs of eagle eyes looking on us but we're relatively sanguine about that because there is no intention on behalf of GrainCorp to "do the wrong thing". I think it's probably worthwhile stating on the record that all during this process from late 2007 or early 2008 on, GrainCorp and the other bulk handlers have been accused and tried in various forums of doing the wrong thing or intending to do the wrong thing when there is no evidence.

MS MacRAE: I guess what I was trying to get to the heart of is in terms of auditing that compliance and who is actually kind of checking that you're doing the right thing, in the audits that WEA are doing, is that primarily around the fit and proper stuff or is it more related to the accreditation access side of things?

MR GINNS (GC): WEA have got very broad powers, as you know, to be able to essentially consider anything, and fit and proper is an interesting one. It's very sort of judgment based and there's a lack of clarity around the way in which they exercise their judgment or interpret some of their powers and I think you refer to that in the draft report. WEA has a very big stick. They can withdraw accreditation from us.

DR CRAIK: And they have to under certain circumstances.

MR GINNS (GC): That's exactly right, if we do the wrong thing. We don't intend to do the wrong thing and we've spent a lot of time and money on ensuring that we don't inadvertently do the wrong thing and as I said before, there have actually been some business proceeds and benefits to us out of that. There has been upside to that, so that's a positive. The ACCC also has a rather large stick to wield and it's not our intention to antagonise either of those regulators.

MS MacRAE: I guess one of the things that's come up a little bit in submissions from the other side again is that in their view at least, ACCC tend to be more, "You come and complain to us and we'll go and have a look but we're not going to actively monitor on a day-to-day basis," whereas WEA take more of a, "We're monitoring you and you'll know that we're watching you every day," so I guess it's just in relation to how that monitoring actually occurs. Is it fair to say there's a difference of that sort in the way that the regime currently works?

MR GINNS (GC): I think what that does is indicates the veracity of some of the complaints that are put forward. I'll just pick up on your description there. People have a weak argument or there is no evidence of malfeasance or malpractice. They won't necessarily like a regulatory regime that has a policeman, for want of a better term, that requires you to gather evidence and deliver it to them so they can

investigate it. They would prefer a regulator who actively goes out and sniffs around and looks for things. Now, I don't believe WEA does that. WEA monitors compliance with our transparency to do with the shipping stem and various other things. I think that WEA are very reasonable in the way in which they're interpreting their powers as they apply to us. But I think it's very important and interesting to note that if people believe that ACCC is not an effective regulator, that we need to look behind why they're saying that, and they're probably saying that because they don't have any evidence to support the claims around why there needs to be a regulator.

MS MacRAE: Okay, thank you.

DR CRAIK: One of the concerns we had expressed and you will have heard this undoubtedly is that now there's no schemes like Golden Rewards, so growers don't get rewarded for the protein level of their wheat in the way that they used to under single desk because of the current cliff face pricing which is based on receival standards as I understand it and because of traders being unwilling to take a risk because they don't have an eye on the whole crop, I guess. There is some concern about the prices going back to growers in relation to quality. Now, as we understand it, some of the traders are starting to put in place arrangements where they do reward quality and certainly some of the pools do reward protein. But also, as we understand it, for instance, CBH is now starting to look at possible schemes where they are able to segregate wheat of a particular quality and therefore provide some greater reward to growers than perhaps they otherwise might have. Is GrainCorp looking at that for its own operation?

MR GINNS (GC): We've always run sites with multiple segregations and so there's nothing new in that for us.

DR CRAIK: I'm sure that's true.

MR GINNS (GC): It may be a little bit different over in WA where you have very much a generic production system and generic production. The market is continuing to evolve and it's interesting that you do raise the quality issue. We'd be somewhat concerned about some of the claims that have been made in public, particularly by AWB about quality problems. It seems that AWB may well be the only organisation that is having those customer problems and that probably goes more to the heart of other matters rather than quality. We released a harvest report a couple of weeks ago and it showed that growers in eastern Australia have been doing as good as a job as they have always been doing, which is very good at producing high quality wheat and other grains and oil seeds and pulses, given of course adverse weather conditions at various times. So we don't actually see where the quality issue is and I think
Mr Morrison - - -

DR CRAIK: Not so much quality in terms of not - I'm really talking about protein and things like that.

MR GINNS (GC): We haven't seen any change and the results from the testing that we've done and that was done independently by Agrifood down at Werribee shows that there isn't this emerging quality problem that people talk about and we're pleased to see that as the market evolves people are going to reward different varietal characteristics or different grade characteristics differently and, as I said before, we have always had the capacity and always done multiple segregations.

DR CRAIK: So are you rewarding different - - -

MR GINNS (GC): Through our pools, yes.

DR CRAIK: Having the capacity and the area you're doing it, I guess, is what I'm getting at.

MR GINNS (GC): A lot people look very fondly back on Golden Rewards. The Golden Rewards system wasn't necessarily what it appeared to be.

MS MacRAE: We don't mind if you elaborate a bit more.

DR CRAIK: Keep going because it's an issue that's raised with us all the time.

MR GINNS (GC): It is?

DR CRAIK: Yes.

MR GINNS (GC): The Golden Rewards system was a very good marketing tool that AWB had along with many of the marketing tools that they came up with during the management of the single desk. At the back end, from a grain management perspective, and given that we store and handle a lot of grain for AWB, the back end didn't necessarily represent the front end. So there certainly was a lot of marketing spin attached to Golden Rewards.

MR HART (GC): When you look at how grain is marketed, pools have the capacity to be able to - if you want to run a Golden Rewards where you're doing protein moisture increments et cetera, effectively you're operating a bank and you're pooling a known quantity of grain and you get a return. But when you actually go to sell it, you sell it at cliff-face price through national marketers. International markets or customers don't give you an increments for protein et cetera et cetera above the specific standard you're selling against. Again, moving forward, if growers want to have that, I guess, averaging effect through protein and pricing and so forth, again, they've got the option of going to any number of pool providers out there that do

offer that graduated scale. But it would be difficult to see that a lot of export traders would actually move to tried and trade increments on a cash basis because it's not how the market works at the other end. How do you run a bank and your cash book on protein and increments for a grower that you'd paid cash. I don't know how it would work. So, again, growers, if that's their preference, go towards a pool.

DR CRAIK: Yes, thanks.

MR GINNS (GC): Just finishing on that point, it's very important to point out that wheat, barley, whatever that actually goes on the vessel is significantly different to what arrives into the up-country site. There is a lot of work that goes to meet the very specific contract standards that the international customer requires because he is a miller and what he needs is, in this case, wheat of very predictable and conforming standards so it doesn't create problems for him when he's actually milling that back in his mill.

DR CRAIK: Okay.

MS MacRAE: Just in relation to pools - and I'm sorry, I can't quite remember if you cover it in your submission or not - we asked in our report about whether you had views about whether there was enough transparency around pools and whether you thought there was any need for either regulation or more self-regulation or whether existing arrangements were sufficient.

MR GINNS (GC): We don't believe that there needs to be more regulation. It's a very competitive market now for pools. There are probably up to 10 or more pool providers. The level of transparency actually has increased. We published our pool deductions last year on our web site and we will be doing so again this year. We will also be quoting site based prices across our network for grain that we wish to accumulate again this year and we'll also be publishing freight rates for the upcoming harvest and we will be doing that next week which is something we have never done before.

In a commercial market you will get a solution where if someone has an attractive product and you have a level of transparency attached to that product that attracts sellers and participants to your pool, then you'll be the winner on the day and the person who lags behind the market, who doesn't want to keep up with the innovations that we will see come through competition, that person will find that they will get fewer participants in their pools. We don't believe that there is any need for additional regulation.

DR CRAIK: Okay.

MS MacRAE: I'm sure we're going to hear from someone this afternoon that's

going to be talking to us about how government needs to be involved in a lot of things that AWB used to do, so the marketing and the quality assurance, all those sorts of industry good sort of functions and I note that you have a different view.

MR GINNS (GC): Indeed.

MS MacRAE: I just wondered if you would like to put on record your view in summary about where you see all those industry good-type functions and how they are evolving and what's happening now.

MR GINNS (GC): AWB was very, very good during their management of the single desk of promoting a whole lot of things that were commercial in nature and branding them as industry good. A lot of the activities, market-development activities, so on and so forth that AWB used to undertake when they were the monopolist were essentially commercial marketing support activities. They did them because they were the only exporter of wheat, yet they branded them as common good or industry good.

GrainCorp now that we're exporting bulk wheat in our own right, we have an international sales team, we're sponsoring international conferences. We were at the International Association of Millers in Turkey last year. We're one of the lead sponsors for the same event in South Africa later this year. We put out a crop report a couple of weeks ago. We're doing promotion. We're doing a whole range of things that used to be considered as industry good essentially to support the development and maintenance of our customer relationships in the international market.

Very few of the things that AWB used to do through industry good - and I think that in your draft report you've done a very good job of discussing what is industry good and what is commercial. I'm yet to be convinced - and I'm fairly familiar, given one of my past roles of the activities, the industry good activities of AWB - how many of them were actually genuine. I will concede that the classification processes, the varietal classification processes are common good. There are discussions under way in the industry at the moment about taking those over, GRDC has been funding them for some time.

There is some tension between people who want to create an independent organisation and those of us who belong to Grain Trade Australia who believe that, given that Grain Trade Australia is setting the receival standards, that that is a body that is genuinely representative of the broad church of the industry, that they should oversee those varietal classification activities. When it comes to market signals or information, there is no better market signal than price in a competitive market.

DR CRAIK: Thank you.

DR CRAIK: We now move to Grain Trade Australia. Geoff, if you could say who you are and the organisation that you come from for the record and then if you've got a few opening remarks, we'd be pleased to hear from you.

MR FARNSWORTH (GTA): My name is Geoff Farnsworth. I am a director of Grain Trade Australia. We have made a further submission to the commission dated 23 April 2010 picking up on the main points that we felt needed some clarification. The first relates back to the issue of access to port terminals and the possible role of the GTA arbitration process in relation to that. There was a submission to the commission which suggested that there was a potential conflict between the role of GTA and its access seeker members as opposed to the access providers. We had, I think, made the point in our original submission that we felt confident that we were able to, if you like, ring fence that process to ensure that there would be no conflicts created by the inappropriate nomination of arbitrators to determine disputes and that is something that I and we as GTA remain confident that we can deliver if we are called upon to do so.

In relation to the responsibility for the setting of wheat standards, this comes back to, I suppose, a perception of the position of GTA in the industry and I think it's been stated on the record on a number of occasions that we work at GTA very closely with growers and grower organisations and that we don't favour any particular sector of the industry in discharging the functions that we do. That's something that's very important to us that we are briefed with facilitating trade in the grain industry and we seek to do that for the benefit of all participants in the grains industry. We have listed in our submission a number of the industry good functions that we current perform and that we will continue to perform as part of our ongoing mandate and those functions are funded only by member subscriptions.

Just picking up on the last comment from GrainCorp in relation to wheat classification and varietal classification, we are making a submission to GRDC in relation to establishing an industry entity that will be responsible for maintaining wheat classification standards in Australia. So that's an invitation that has come from GRDC. I think GRDC has gone to industry and asked for proposals for the continuation of that standards role and we are certainly putting a submission to GRDC to seek to take that role over.

DR CRAIK: If I could just follow that last one up, when you say "seek to take that role over", are you talking about taking it over from the WCC - - -

MR FARNSWORTH (GTA): No.

DR CRAIK: - - - or the temporary WCC that's currently in place?

MR FARNSWORTH (GTA): My understanding is that the WCC in that role used

to sit within AWBI, that the WCC and the Varietal Classification Council moved over to GRDC as part of the deregulation. It's a proposal that we're putting up and we don't know how it will be accepted. But our submission, without going into too much detail because it's reasonably early stages - the proposal is that the WCC and the varietal classification functions would move into a separate legal entity and be operated from within that separate legal entity.

DR CRAIK: Overseen by GTA?

MR FARNSWORTH (GTA): It would depend on the structure of the organisation that ultimately does it. But one proposal, I think, that has gone forward is that the secretariat would certainly be provided by GTA. The board - once again this is a work in progress - we envisage would consist a representative from GRDC, a representative from GTA with an independent chair - so that would be the corporate governance structure, if you like - and the current Wheat Classification Council and varietal classification panels would be conducted within that entity.

DR CRAIK: Who would fund it?

MR FARNSWORTH (GTA): I think we would be initially looking for some funding from the GRDC to establish the structure, but thereafter it would be funded by industry. The secretariat function would be provided by GTA as a contribution in kind and we're confident, I think, that the industry would provide the necessary funds to fund that process.

DR CRAIK: Do you have a view how the industry might provide those funds, like, a levy or what contributions?

MR FARNSWORTH (GTA): I can't expand on that at the moment.

DR CRAIK: Okay. I think someone might have mentioned that to us in that general approach in one of the - - -

MS MacRAE: Yes, Robert Sewell spoke to us.

DR CRAIK: - - - hearings or submissions that we had, that general approach. Has GTA got an interest in becoming involved in - above and beyond what you do now - other industry good functions?

MR FARNSWORTH (GTA): We would always look at becoming involved in delivering other industry good functions or performing other industry good functions, if we could get a clear signal from the membership of GTA that that was an appropriate thing for us to be becoming involved in.

DR CRAIK: Okay.

MS MacRAE: Can I just ask in relation to the point you make about end point royalties that there's this disclosure statement in the contract. Does that actually then facilitate payment? So I tick the box and I say, "Yes, it does have EPR liabilities associated," and then I provide the details, what happens with it then? Does the contract then require that those payments go back to the breeders or - - -

MR FARNSWORTH (GTA): I think the intention is just that the contract puts the purchaser on notice that they are buying grain which is subject to an obligation to pay EPR. Obviously GTA isn't party to the contract so we're not in a position as a clearing house to collect the funds on behalf of the royalty recipient. But it really is just an intention to alert purchasers that - and it really puts the onus, I suppose, on the seller to declare the status of the grain.

MS MacRAE: Okay. At the moment there's a requirement, isn't there, through WEA that if there's - - -

DR CRAIK: Accreditation.

MS MacRAE: Accreditation says that if it is, they have to, but without the accreditation we'd still have a disclosure that the reason to ensure payment would still be - it would be weakened.

DR CRAIK: That's right.

MR FARNSWORTH (GTA): Yes, the obligation remains with the purchaser.

DR CRAIK: Okay. Your first point in your submission where you're talking about GTA would be happy to set up a set of dispute resolution rules in relation to access undertakings, have you approached the bulk handlers in relation to that at all or not?

MR FARNSWORTH (GTA): No, we haven't approached them in relation to that at this stage.

DR CRAIK: Okay. I was just wondering what their reaction might be.

MR FARNSWORTH (GTA): I think, just based on the submissions that we've sent to the inquiry, they by and large - with the exception of the reservation about independence - the bulk handlers support GTA having a role in that dispute resolution process so long as they could be confident that the arbitrators were independent and not somehow partial to access seeker.

DR CRAIK: Okay.

MS MacRAE: I think at the time the access undertakings were being negotiated the ACCC was looking around for someone to take on the role and felt they couldn't get agreement across the industry. Things might have moved on, just like anything else. I have to say that quote from Ashley Roff, if I remember correctly he was taken a bit on the hop on the day, I think. I think it was, "I wasn't expecting a question and now what I am I going to say in response." I don't think he would say that was a considered response from him - - -

MR FARNSWORTH (GTA): No.

MS MacRAE: - - - so it's all well that it's been put back on the record. The only other question I have is just in relation to this perception of growers because we quoted the West Australian Farmers Federation but there were others we heard at various forums that there was just this continuing, lingering concern among growers that the wheat quality standards were being set against the growers' best interests. I felt could quite get to the bottom of exactly why or how they felt that was the case, but are you able to elaborate any more? I appreciate what you've written here is that, "The GTA process is intended to be independent," and all those things but it seems that's not convincing the growers that it is. Do you know where that perception stems from?

MR FARNSWORTH (GTA): We have listed a few bullet points I think in empirical response to that; it's not so much an allegation of bias but to try and address that perception. But it really is, I think, nothing more than a perception with very deep roots in history and whether that can ever be - I'd like to think that it is not a view universally held across the grower community. There will be certainly some producers who hold that view and I would like to think that there is no evidence to demonstrate that there is any partiality at all but it is just a long-held historical perception - I suppose a friction between the producers and the trade.

DR CRAIK: Okay. I don't think I have any further questions. Thanks for your submissions, they're clear and to the point.

MR FARNSWORTH (GTA): Thank you.

DR CRAIK: Thanks very much. We might break for morning tea for 15 minutes and we'll start again at 11 o'clock and we've got Jock Munro.

DR CRAIK: Hi, Jock. Thanks very much for coming in. If you could start by saying who you are and who you represent and then if you've got a few opening introductory remarks, we'd be pleased to hear them.

MR MUNRO: I'm Jock Munro, I'm a wheat grower from the northern Riverina of New South Wales and I come here as an individual grower but I feel as I'm definitely representing my district and the general rank and file. I'd be game enough to stick my head out and say that I have a pretty good handle on what wheat growers are thinking at the moment.

DR CRAIK: Thanks for coming along because, I think, as I was saying earlier, you're so far the only individual grower that we've had come to this round of hearings, so thank you.

MR MUNRO: Once again the timing is a bit unfortunate because we are sowing most of us and it's a long way from home as well. I just want to say firstly that I was very disappointed in the draft report because to me it's dealing with the big end of town and not really what growers are thinking and growers, after all, are the main participants in this industry. I believe that the single desk marketing arrangement we had for 70 years, we've now been set back 70 years with the removal of that system and there's absolutely no doubt at all that the system we had was well supported by growers. Tony Windsor polled here and you might - can I submit these?

DR CRAIK: Sure.

MR MUNRO: I might draw to your attention - - -

DR CRAIK: We'll put them as attached to the booklet and as a submission from you.

MR MUNRO: Okay. I'll just draw to your attention to the support in New South Wales. We had general support of 80 per cent for the single desk and in New South Wales it was 87 per cent on the Windsor poll which is interesting in itself because New South Wales has a very strong domestic market but I think most New South Wales growers were aware of the fact that the pool underpinned that domestic market. Just talking about the single desk, the core principles, we had a collective marketing power. It completely enrages me that people can talk about competition as a benefit to growers when all this system now does is has us competing against each other as weak individual growers.

We had price stabilisation which was extremely important. We had a market-clearing mechanism for all volumes and grades of wheat across Australia and this where we get to the receiver of last resort. I can't stress how important that provision was in the act because that meant that when I was grower and put a crop in

the ground I knew that I could sell that wheat or market that wheat through my marketing arrangement and have that wheat delivered off the header and have a first advance payment of 80 per cent of the estimated net pool return within two weeks. In fact that payment was so fast I got a payment one year - no word of a lie - I delivered wheat on a Saturday and I was paid the following Friday because of the cycle I had got into.

We had a system that maximised net pool returns and not only did it go out and create premiums in the marketplace because we had good system of supplying quality and service and after-sales service, but the pool was able to leverage the freight providers and the storage providers. We've seen since we lost our system the price of freight and handling increase. The other point here is the shared risk management. We had a hedging arrangement, the pool did the hedging on our behalf which saved us incurring huge risks. I remember two or three years ago we estimate that over one and a half billion dollars was lost to the industry through growers getting into trouble with hedging and futures and swaps and what have you.

The other thing was that we all had a shared funding of industry services - and this gets back to the industry good. Some of those industry good functions with the receival standards - wheat classification, sorry, is the thing I wanted to mention. Already growers have lost faith in varietal classification standards, you name it. There's just a general lack of faith in the growing side of the industry. The crop-shaping activities, that was just the most incredible initiative that our pool gave us that we were actually shaping our crop. I remember the AWB was able to tweak the growers into changing their emphasis on variety so that they could meet certain markets. You will never ever achieve that sort of thing in a deregulated environment.

The technical support that we were providing to our customers, we were teaching them how to bake our bread. In my way of thinking we actually owned that Iraqi market because they built their market around our wheat and we had a very close relationship with those people. Actually it's interesting now the trade - there was a trader at a barbecue I went to the other day that's telling us that the Chinese don't necessarily want to deal with us any more because when they're dealing with traders it's all about money, whereas when we had the cooperative single desk arrangement it was about service and quality. This is how the real world operates. This deregulated stuff is all good on paper but there is a real commercial world.

The other point I'd like to make is I had an arrangement where a company that I elected growers to run, they were my representatives in the world marketplace. We have replaced that with agents. No matter what you call it, we've actually replaced a cooperative selling arrangement with a group of agents. This nonsense about there being more buyers in the marketplace, we as a single desk sold to 70 countries worldwide. I think we had a hundred customers in 70 countries. That was the

marketplace. Now we've put agents between us and the market and we've been turned into weak sellers. It's been an absolute intellectual fraud that anyone could try and tell a grower that he's better off under a deregulated environment because deregulation - after all this whole competition policy was designed to drive prices down to make business more efficient.

Why would you want to drive the price of wheat down? That's in effect what this has done but it's worse than that because it's creating insecurity and there's a lot of insecurity out there and there's some people who are electing to grow the same acreage this year but there are a lot of other people cutting back already and looking to run more sheep. On the Liverpool Plains, from what I believe, people are growing more alternate crops such as canola and mung beans and peas which is an interesting thing in itself because those crops were grown to enhance our wheat production. Now we appear to be turning the thing about-face and growing more of the alternate crops when the role of alternate crops was to allow us to grow more wheat because of the cleansing effect of those crops and also the fertility benefits they provided.

Of course, with the national pool you have trade advocacy. It was all bound up in the one system, this cooperative marketing system which in fact was a deal between the Australian community and the Australian wheat grower. Why would you remove that deal? It worked effectively and made us the best wheat growers in the world. We're in so much trouble that we've now got traders saying that we're getting down near the Black Sea-type quality. We used to just burn them off in the past - pardon the colloquial language - but why wouldn't we end up like these people if we essentially have the same marketing system which is no marketing system at all?

Just getting back to this risk thing. You don't appear to understand the difference to me as a wheat grower being able to harvest my wheat and deliver to the national pool and have that pool finding a marketplace, leveraging and that money coming in straightaway. Now when I'm sowing a crop I really don't know what's going to happen at harvest time. I don't know what the price will be. I don't think it's going to be very good this year. I don't know whether I'm going to have to store that wheat. The other issue we've got, if we warehouse, we're locked in with the major handlers and what have you again like GrainCorp. You get into their system and it's very expensive so it's not really an option. So more and more wheat is going to be stored on farm and we've got this terrible risk with insects, the weevil problem - the Department of Ag and what have you are telling us they've never seen a weevil issue like it. That's perfectly logical with the way it is.

Increased risk: there's only one way that a grower can deal with that increased risk and that's to reduce the risk and the way he will reduce that risk is to cut back his acreage. You may not take any notice of me but Graham Blight, I'm sure you have some respect for, he suggested that the industry could shrink to 10 million tonnes

production. I just make that point. The other thing is the food security, if we go back to when the wheat stabilisation was brought in, it was brought during the war time, the Second World War, I've been scoffed at for saying this but it was all about having a supply of wheat to supply Australian during wartime and those principles haven't changed as far as I'm concerned. We will end up running out of wheat, I've got no doubt about that, because the national pool was keeping people growing wheat, it had a way of smoothing the ups and downs in production.

I can guarantee at some time in the future if we don't rectify this situation, I guarantee we'll run out of wheat because you'll get the growers cutting back and then you'll get a series of droughts and there won't be enough wheat for this country's domestic needs. You can imagine the pressure it's going to put on the end users if there's a poor supply of grain. There was another point I was going to make about that. We had a Wheat Growers Action Group and we did write to the United Nations on that issue actually because the United Nations were having all sorts of conferences about food security. This is the letter to Ban Ki-moon. I sat up two nights trying to follow it through that labyrinth in New York. I don't know where it ended up. I might table that. That's the press release we put out.

Just another issue, you mentioned small growers and large growers. I went to a barbecue at home the other day. There was 30 growers there. I reckon between the 30 of us we'd put in 200,000 acres of wheat and there was a lot of big growers there and young growers. These days we talk about young innovative farmers and how they don't want this and they don't need that. Well, they're under as much stress as anybody because what happens if you're a fellow growing 15,000 acres and you grow 25,000 tonne, that's 25,000 tonne you have to deal with. In some ways a small fellow might have less risk because he might be doing other things. You come to eastern New South Wales where there is more a mixed farming approach and they can maybe drop their wheat and not worry about it. But where I am wheat is our lifeblood. I was going to make the joke that when you cut people out of my area, if you cut their wrists you don't get blood, you get diesel - probably Roundup these days.

Where we are we are so vulnerable in that wheat belt area and Alan Oxley from ITS Global said that these regional monopolies and freight costs and what have you would cripple the wheat belt and he said as many as 10,000 growers would be affected. The costs out there is so far from anywhere and because we had a cooperative approach to our industry, everybody was able to survive whether you were at Harden or Rankins Springs. That's what people seem to have forgotten these days. We had this bit of cross-subsidisation with our freight and you've got to do these things to keep everybody in the job. Otherwise, if you start dropping production you end up with a weak industry and that's what's happening. Because we have such a stable industry people were going to field days and they were learning how to grow more wheat. I can see in the next year or two where people are

going to lose interest in actually becoming better wheat growers because you've got an oxymoron - why would you grow more wheat if you can't sell it at a profit or can't sell it all?

We have gone from having an obligated system where every grain that was of exportable quality was accountable, it was going to be sold. Now there's nobody accountable. As Graham Blight said to me - I'm sure he won't mind me quoting him - "We're on the outside in Australia. We're a long way from anywhere." He said, "The wheat industry is around Europe and Canada and those sort of countries. We're out here. Not only are we a long way away by sea, but we've got long distances from the wheat belt areas to the ports." Who is going to care in the rest of the world whether we grow wheat or not? Someone else will grow it and that's why we needed that pool to cut our costs and to ensure quality and to ensure security so that we had confidence in planting a crop and continuing in the industry and getting better at it. There's no doubt what we've done in the last 20 or 30 years. I think we had productivity gains of 5 per cent a year of something like that.

With that point about the big growers, I don't know whether you read *The Land* the other day, but that fellow there, Greg McCarten, he's from Rankins Springs, he would be one of the most successful farmers in the nation, not only in our district, but an extremely successful farmer, a large farmer. I think they had up to 12,000 hectares of country and very good wheat country. There just going to start putting their machinery away, cut back to one or two paddocks. He made the point in this article that in the 30s his father actually put his machinery away. The industry got so dysfunctional. He built a shed and put the machinery away and ran sheep. Could I table that as well.

DR CRAIK: Yes, sure. Thanks.

MR MUNRO: There is just another issue here with grain stocks before the pool managed the carryover and it was able to service customers, it was able to service the domestic market. That's another thing that people forget, the domestic market had a very good supply of very good quality grain and the pool wasn't necessarily obligated to look after the domestic market but it did. It had a tendering process in dry years or in low production years and this article here is making the point that that carryover is no longer managed to the benefit of the industry. What is going to happen, they're talking six million tonne this year. What happens if there's six or seven million tonne carryover next year on top of the six million? Before you know it you're going to have a year's supply of wheat lying around Australia.

I always made the point to these consultants and so-called experts, "How do you expect a wheat grower, if he's still got most of last year's production in silos or plastic bags or wherever, to turn around and sow another crop?" That's not reality. It's not going to happen. For a start, unless you're very wealthy, you're not going to

have the money to put another crop in. The other point that needs to be made too is in Australia we're out of sync with the rest of the world and not only that, we've got long lead as wheat growers. I'm planting wheat in paddocks now that were fallow for 12 months. I've been thinking about what I was doing in those paddocks 12 months in advance.

As a wheat grower you don't just get up one day and go out and grab the tractor and start a crop. There are long lead times in agriculture. Do you understand the point I'm making? We need some sort of order to keep us confident enough to grow a crop and to do all the right things that we have to do to our paddocks, you know, our rotations and our pasture cleaning and our disease management and all those sorts of things; because as it stands at the moment we're sowing crops and we've got no idea what we're going to be paid or whether we're going to even sell the crop at the end of the year. I've already made that point but I just make it again.

I did a bit of an exercise here just before we were deregulated, and it's about the difference between selling the wheat to the national pool and getting your 80 per cent first advance and having to store and the difference in the cash at harvest time and what that means, you know, like the surplus.

DR CRAIK: Okay.

MR MUNRO: But I'm just trying to make the point that we've created a system that's just hell on earth for wheat growers. You may get growers saying it's okay. You'll get some of the fierce deregulators that still won't admit that it's not working, but the interesting thing I'm finding is that trade - even the small traders who should have known better, but they were pushing for deregulation - they're finding the risk just too much for them. It's just too great. What is going to happen in the end is the Cargills and the Dreyfuses will be running the whole industry. I just found it interesting with Mr Ginns but they'll have GrainCorp and co where they want them, because they'll be buying most of the wheat and they'll be virtually telling GrainCorp what to do. It won't be the other way around, I can assure you. This is the way it was in the 30s. Pardon me for bringing back the past but, I mean, principles never change. I'd like to table this as well. This is what I presented to the senate.

DR CRAIK: Okay.

MR MUNRO: Prior to deregulation; the uncertainty and what it would do to growers. The other thing you've got to remember is the debt levels in this country at the moment. We've had 10 years of droughts. The debt levels are horrendous. I think the banking system, they are I think a bit remiss in not supporting us in holding onto this system, because they're going to be the first people when it comes to finance. I think they're starting to realise now that it's not so easy to finance a wheat crop when you haven't got that national pooling arrangement. We're not only killing

ourselves with lower prices and insecurity, we've got our markets shrinking on us because people aren't so keen to buy our wheat any more. It's closing in on us from both sides, if you know what I'm saying. I'm sorry I didn't do a - - -

DR CRAIK: No, if you table all those things - - -

MR MUNRO: Yes.

DR CRAIK: - - - that would be helpful. You can table them as your submission. We can do that, can't we?

MR MUNRO: Yes, I could do something - - -

DR CRAIK: Might have to get you to do a cover sheet.

MR MUNRO: Okay.

DR CRAIK: To put them in as a submission.

MR MUNRO: Yes.

DR CRAIK: But then we can put them up on the web; scan them and put them up on the web as your submission.

MR MUNRO: Right.

DR CRAIK: So thanks for all those comments, Jock. We've got a few minutes for questions. The first question I'd ask is really why is wheat different from every other agricultural commodity, you know, in terms of the need to have a single desk? I mean, things like cotton you don't have a single desk.

MR MUNRO: Well, for a start we had a 25 million tonne a year industry. We're growing wheat in a lot of areas that are - you know, we've got huge production risks. You can't compare wheat with cotton that's grown on irrigation and is a fairly homogenous product, so they're able to forward sell and do things because they're reasonably guaranteed of production. But you're dealing with wheat.

Tell me what industry really is working under deregulation? We've shrunk the Merino, the sheep industry, we're back to 60 million. There's no regulation there. What was actually happening is people were going out of other pursuits to grow wheat. It was going on not only in the drier areas like round Walgett and those sort of areas. They learnt how to grow wheat in those black soil plains with better moisture retention techniques and what have you. Then to the eastern areas, the wetter areas, they're growing wheat there. Why were they doing it? Why were they

getting out of these other pursuits to grow wheat? It was because of the stability and we know it worked. Why would you take away something that worked and made us the best?

Unfortunately with this one day we're going to be able to say, "Well, we told you. Like you were told time and time again that we wanted a single desk marketing arrangement and it worked." I mean, barley has been deregulated and people don't want to grow barley any more. The shire I'm from is one of the main malt barley producing regions in New South Wales. People do grow a bit of barley but they haven't got a lot of faith in what they're doing and they've sort of given up on malt, because malt had to be managed because it was such a tricky industry. You're dealing with maltsters and they're very particular about what varieties they use. The maltsters were in the position where they could pick the crop, they had the first pick of what grain they wanted.

DR CRAIK: What about canola?

MR MUNRO: Well, we're about to test canola. This year there's a lot more canola going in. We'll see how it goes. But the other point I should make is wheat was holding all these things together, because I believe that wheat not only underpinned all the other grains, it underpinned the livestock industries as well. We're really about to test all these things, these other alternate crops, now that we haven't got a single desk for wheat.

Just imagine in the lamb job, you know, you go to Wagga sale yards, there's 33,000 lambs going in a week, or there was. If a lot of the wheat growers go into lambs and there's suddenly 50,000, what's that going to do to the lamb price? The area I'm in was traditionally a wheat-sheep area but it sort of veered towards wheat production and a lot of people are continuous wheat croppers. They're going to start slipping back into sheep. It's happening. I mean you've got a job to buy a sheep at the moment, they can't even get enough sheep for the mutton trade because people are keeping their old ewes back or other people are buying them off you. So it's obvious to all what's happening, what's going to happen with the lamb job. The production of lambs is going to increase.

DR CRAIK: Okay. You raised the issue with the AWB pool you get earlier payment from the national pool and be assured of payment. A number of the larger companies are offering pools now. Do any of those offer early payment similar to AWB?

MR MUNRO: I'd say their terms would be within 30 days. But I've got a reluctance to deal with most of the trade, to be honest with you. I don't trust their balance sheets.

DR CRAIK: Is that a comment just on the pools or the traders generally?

MR MUNRO: Well, most of the traders, to be honest with you. I'm frightened of not getting paid.

DR CRAIK: Even with WEA accrediting them?

MR MUNRO: Yes.

DR CRAIK: Even though they really go over them - - -

MR MUNRO: Yes, I'm still worried.

DR CRAIK: - - - with risk management tools and things like that?

MR MUNRO: Yes.

DR CRAIK: Yes.

MR MUNRO: Still got a real concern, and most growers would tell you the same thing.

DR CRAIK: So how do you choose who to sell your wheat to?

MR MUNRO: Well, generally, much as I hate to admit it, I sell to the really big ones, like these multinationals and what have you because I know that they're probably reasonably safe.

DR CRAIK: Okay.

MR MUNRO: But I can't make it clearer, this whole notion of competition is just a farce. You imagine if you're an Arab now buying Australian wheat. What do you do? Before they had to deal with AWB, right? Now, they might have six or seven traders out there sourcing the wheat for them. How can you possibly increase the price, you know, by getting - the trader, he's got an order to go and get 2000 or 20,000 tonne. He is more subservient to the buyer than the grower, if you know what I'm saying. He wants to keep that buyer's business, that end-user's business. So he is going to get that wheat off me or anybody else for as low a price as he can possibly get it. I mean, is that how a market works?

DR CRAIK: Well, I think it varies a bit. As I understand in WA people have been getting a bit more for their wheat because of the traders actually want to fill the slots that they've booked and paid for, the shipping slots that they've booked and paid for. So rather than lose that money they're paying a bit more to ensure that they

actually - - -

MR MUNRO: The traders aren't buying the wheat though. The traders are only facilitating the actual transaction.

DR CRAIK: Yes, but they organise it from the grower.

MR MUNRO: Yes.

MS MacRAE: I guess the other angle on that is, is it your view that AWB was big enough to command - if I understand you correctly you're saying that AWB was so big in the world market that they were able to command a price that an individual trader here now couldn't because they're smaller?

MR MUNRO: Well, the AWB - - -

MS MacRAE: In the same way that the Arabs or whatever could say, "Well, we don't like your price, AWB, and we'll go to the Black Sea or we'll go to the US or we'll go to Canada." I mean nothing has changed in the way that they - - -

MR MUNRO: It's interesting you say that. They would threaten the AWB that they would go to the Black Sea but they always knew with the AWB they got what they paid for. The AWB delivered to them what they said they would deliver. That was known world wide. I remember a fellow - this was from the early days of the Grain Growers Association, who went on a trip round Asia and what have you, one of the mills showed them a bucket full of wheat that had come from America, full of rocks and dirt, whereas they knew with Australia they were getting what they paid for. I mean, that's a pretty important thing in business.

DR CRAIK: Doesn't that still happen pretty much?

MR MUNRO: Well, no, it's not happening. The thing that we're hearing is the Canadians are picking up our markets because they still have their single desk and they're still supplying what they tell the buyer they're going to give them. There was an article that said that we've had an effect on the overall world price, because we're not there with our premium product we've actually dropped the world price.

DR CRAIK: Well, we only provide 10 per cent of the world market in wheat.

MR MUNRO: Well, we were between 3 and 5, that's pretty big.

DR CRAIK: Not in the world market, I don't think.

MR MUNRO: That's the stupid thing about this. We've got America, that they

grow more wheat in one county than us. This is our life blood. We are a nation of wheat growers. We're a nation of farmers and miners and we've just cut the guts out of our wheat industry. I've said repeatedly, this is going to be a shame and an embarrassment for our country. It really annoys me because it makes us look like idiots, you know. Like Australians, we're supposed to be a practical, resourceful people and a tough lot into the bargain and we've just - I think it's because of the way our country is made up now with this huge urban population and not enough of us in the regional areas, but we've been made to look like asses. That's the reality. Look, it's no good talking about paper and theory. This is the real world. This is how the real world works.

DR CRAIK: We'll have to stop in a minute and move on to New South Wales Farmers. But there was a very big analysis done in 2000 of whether AWB actually got a premium price. It was a very lengthy analysis and I don't understand all the economics of it but it drew on a number of studies that they commissioned specifically. Really, what it showed was that it was very hard to demonstrate that AWB did. The weight of opinion was that when you're only providing 10 per cent of world trade there's no way you can influence the global price.

MR MUNRO: I don't believe that, and it's more than price, it's security. Like, this is what you've got to understand. If I knew I was going to get \$160 a tonne at the end of the year - that's not enough money but if I knew that was the price, that was the estimated pool return, and I grew a 20-bag crop, I could probably generate enough cash and pay a few bills. But when I don't know, if I grow a 20-bag crop and it's worth \$50, well, nobody will take it off me.

DR CRAIK: Yes.

MR MUNRO: It's the security and the fact that they were building our markets. We have these customers that were loyal to us, you know, that kept coming back. Did you notice during the oil for food business, you know, all the talk, that nobody wrote to John Howard or Kevin Rudd and said, "Get rid of the single desk," did they? If they had it would have been all over the paper. Our customers were very happy with the way we sold wheat. The other point I should make is the trade: they don't want big prices for grain. They want the lower the better because it means they have to put less money out to get the grain. They have an interest in low prices, not only because that's what their customers want but because it lowers the amount of money that has to change hands. I mean, that's perfectly logical, isn't it, in the real world?

DR CRAIK: Of course the traders are going to pay the minimum, like you will pay the minimum. When you're buying something you'll want to pay the minimum you - - -

MR MUNRO: That's right, yes. But it's a matter of money too. If you've got to fork out \$250 a tonne as against 150, for 1000 tonnes that's 150,000 at 150; but if it's 250 that's 250,000 that has to be handled.

DR CRAIK: Yes, that's true.

MR MUNRO: Yes.

DR CRAIK: Jock, I'm afraid we're going to have to wind up at the moment, but thanks very much for all your comments. If we can organise with Clare to get some kind of cover sheet on the things that you tabled, which we'll go through, we can regard them as a submission, put them on the web site.

MR MUNRO: Okay.

DR CRAIK: Thank you. Thanks very much.

MR MUNRO: You should come to Rankins Springs one day and meet the locals.

DR CRAIK: Yes, actually, I'd like to. I haven't been out there. We haven't been there.

MR MUNRO: Okay, thanks very much.

DR CRAIK: No, that's very much, Jock.

MS MacRAE: Thank you.

DR CRAIK: Our next appearance is from New South Wales Farmers. Thank you. Okay, thanks, John. If you could identify yourselves and say where you're from for the purposes of the record, then if you have a few introductory remarks we'd be happy to hear them.

MR RIDLEY (NSWFA): John Ridley, representing New South Wales Farmers Association.

MR MASON (NSWFA): Ben Mason, policy manager, New South Wales Farmers Association.

DR CRAIK: If you've got a few introductory remarks, I don't believe we have a submission from you.

MR MASON (NSWFA): Yes, it was sent yesterday. I apologise for that.

DR CRAIK: Well, it hasn't arrived here yet but I'm sure it's on the way. Okay, that's fine, thanks. So we haven't read anything other than your press releases on the draft report. So over to you anyway.

MR RIDLEY (NSWFA): Firstly, I guess we apologise that our submission wasn't in a bit earlier.

DR CRAIK: That's all right.

MR RIDLEY (NSWFA): But Ben's obviously a very busy man. Thanks very much for letting us come along and represent the association today. At the last count there's about six thousand grain-growing members in the New South Wales Farmers Association. Our policy is determined by those members at our annual conference each year. Our policy quite clearly states that we favour a grower-owned and controlled entity for marketing and the export of wheat from Australia; similar to that as outlined in the AusWheat plan which I think we tabled at the hearing here some months ago.

I might start off by saying we were disappointed at the results of the report of the hearing. We didn't feel as though it reflected any of the information that we provided, and for that matter on behalf of our members, and we don't feel as though it represented the majority of growers. It did emphasise the fact that 10 per cent of growers now grow 50 per cent of the grain. Well, might I suggest where the other 50 per cent come from if we didn't have the 90 per cent of so-called "small growers". But what makes a difference between a big grower and a small grower can quite often be seasonal conditions.

Certainly the big growers come from, in the main, Western Australia and some

up in the north of New South Wales. But I'm quick to add that both those areas have endured reasonable seasonal conditions all through this drought, whereas further down from central west New South Wales and down into the south, apart from a little bit in 2005, we've grown no significant amount of grain since 2001. I might add that that would have a big bearing too on the success of the deregulated market or otherwise if instead of the pittance that we have had at the market we had our normal 24, 25 million tonne crop to get rid of. I think sadly if we had that over the last couple of years it would have been chaos, complete chaos.

I'm going to let Ben speak to the submission because he has prepared it, but growers have lost control of our industry, an industry that we had strong control and influence in for 70-odd years. Certainly growers don't know where to turn. They have tried to embrace a deregulated market, they have stored grain on farm and they have warehoused grain and that, and obviously the price has completely gone on them since harvest. They were waiting for a better price, and it has gone, and in the meantime they're getting these monstrous bills for warehousing and on-farm grain storage, treatment and what have you.

Another area where we have lost control is the industry good functions that AWB used to have, and they're certainly not faring real well under the deregulated market. A number of these things were given to Grain Trade Australia, which, in my opinion, has turned out to be a monstrous mistake, insofar as they're an association of traders. They do allow us some representation on their committees, but we're like a drop in the ocean there. If you partake in a meeting, there's about three growers and probably 12 or 13 of them, and I think the actions they're trying to take in tampering with the standards, especially the minimum wage standards, is a clear case of them misrepresenting the science of quality standards and bringing in something to suit themselves.

I think a lot of those industry good functions and certainly the standards should be in the hands of someone like the BRI, who base their decision-making on science rather than what someone might think is the order of the day. It has been interesting to note - of late I saw a report from the chairman of the Canadian Wheat Board, as you know they still have a deregulated market, and they're avoiding places where Australian markets their wheat because Australia is driving the price down with the traders who compete against one another in our traditional markets. That was interesting. But I think I'll hand over to Ben now to speak to our submissions, if that's okay, Wendy.

DR CRAIK: Yes, thanks. Over to you.

MR MASON (NSWFA): I'm sorry for the submission being late, but there's other issues with the approval process with the native vegetation and mining issues and things going on at the moment.

DR CRAIK: That's fine, Ben. We understand you're short-staffed and have lots to do.

MR MASON (NSWFA): The initial terms of reference, as detailed on page (iv), the association believes fails to accurately reflect the grower concerns in regards to the costs and benefits, access to facilities and spread of the product categories and price implications with regards to the complexities associated with capturing that produce on a year-to-year basis, to which John has alluded. Whatever considerations are undertaken should address the grower's geographical and spread of produce produced within any given season and the complexities associated with that capture and storage of the produce prior to addressing the transport and marketing aspects, otherwise this whole exercise is pointless in its primary objectives and fundamentally flawed in the long term.

Moving on to the accreditation and quality assurance aspects, the association believes ongoing accreditation of bulk wheat exporters by WEA or a similar independent body is essential to at least give growers some assurance they are dealing with a fit and proper company to export bulk wheat from Australia. It's also essential to maintain Australia's competitive advantage as a provider of high-quality wheat. The reputation of Australia's wheat is worth far more than the cost of the wheat export charge of 22 cents per tonne and the Wheat Export Marketing Act 2008 should in fact go further to include the extension of powers for WEA to require it to benchmark the performance of all accredited exports and publish export information in the interests of market transparency.

We believe a large proportion of this information would already be at WEA's fingertips. It would be independent and not prone to manipulation of any kind from the industry. An example of the container and bag trade recently where 50 container loads of 1250 tonnes of wheat were rejected at the Indian Chennai port due to being found to contain more than permissible levels of chlorpyrifos is an example of how the container trade is currently the weak link in the chain, in terms of upholding the quality of Australia wheat exports, and, alarmingly, it is also a sign of what could occur in the bulk export of wheat from Australia if WEA was not policing this area.

It's a timely reminder that the majority of primary producers are not grain-quality-assurance accredited and as such cannot substantiate prudent management practices to any independent body, hence the continued export of grain direct from farm to export is without doubt destined for an increase in rejected loads under the current exporting arrangements. Moving on to a payment security issue. Over the last 10 to 15 years we have seen the demise of various grain trading companies.

The commonality of the foreclosure of these companies is one or all of the

following: they were all company structures with limited liability; they all traded on the domestic market, which is a finite market with resulting limited access to buyers presenting their best offers on a given day and they were all specific grain-trading entities; when the domestic market was tight with impending drought, etcetera they overextended themselves by either taking a very aggressive marketing position with very thin margins, taking a large physical or futures portfolio in the marketplace with either buyers or producers and without any regard to squaring their books to wash off risk as the season developed or unfolded, and they all traded whilst insolvent.

So due to the significant limitations and to instil more credibility and accountability within the marketplace, sooner or later these trading entities should have to substantiate to both buyers and growers that they possess appropriate foreclosure insurance commensurate with their level of exposure within the marketplace. Legislation needs to be introduced to protect grower ownership for grain until payment is received.

Moving on to access to ports. With the port access test destined for abolition from 1 October 2014, the association believes that this should in fact be revitalised and submissions called for amendments in order to enhance its effectiveness. The importance of this move is highlighted on page 150 of the draft inquiry report, stating that the facilities are of national significance, the size of the facility, the importance of the facility to constitutional trade and commerce and the importance of those facilities to the national economy. The notion that in the future port terminal services operators develop a voluntary code of conduct to govern port access is fanciful and would within a short period of time lead to major players dominating all aspects of terminal services. So the current access test under the Wheat Export Marketing Act 2008 should be retained.

In our previous submission we mentioned that the Productivity Commission or the government conduct a democratic survey of growers, also including perhaps what the major banks think about deregulation. Members have reported that the banks they have approached are not supportive of deregulation and, "Have they been approached to comment in relation to the financing issues associated?" There was no mention of this survey in the report. There was also no mention of the grower forum held in Dubbo on 9 December 2009, which was attended by approximately 50 growers. This was the only meeting scheduled for the whole of New South Wales. It was scheduled right in the middle of harvest.

I appreciate the timing pressures, but this was the only opportunity for growers to voice their concerns regarding the current marketing arrangements in a forum. The growers who were present were united in their called for a grower-owned and controlled not-for-profit entity operating a national pool. There were no minutes taken at the meeting and there was no mention of the meeting in the report. I'd just like to reiterate the importance of the inland freight link. Until the national state and

geographical monopolies created by the Australia rail system are eliminated by a western rail link from Melbourne to Brisbane, grain delivered into a receival point is committed for a specific port even if that port, even if that port is inefficient, congested or expensive to shift from. The industry good functions of the industry-led group to provide industry good functions are, "Who will this involve?" and, "Who will pay?" The association doubts that without a national pool any profit from this will flow back past the trade to the growers.

DR CRAIK: Is that it?

MR MASON (NSWFA): Yes.

DR CRAIK: Thanks very much. If you think of anything else, you can say it along the way. If I can just pick up one point that you made, that the Dubbo forum is not mentioned. It's mentioned at least on page 41 under Participants' Views, and again on page 42:

Growers at the Dubbo forum supported a return to national wheat marketing system, suggesting true competition does not occur under deregulation. A stronger view was expressed by Fiona Nash at the public forum in Dubbo, New South Wales.

It does actually get a mention a number of times throughout the report. So let me correct that misapprehension. I know it's a long report, and I don't blame anyone who hasn't read the whole thing, but it is there. We did acknowledge it..

MS MacRAE: The other thing is, although we don't mention the word "Dubbo", chapter 3, if you look at it in detail, we did try to pick up the vast majority of the issues that were raised by farmers at that forum. So while we have pooled the more generic issues raised by growers, many of the issues that we raise in that chapter came from the Dubbo forum as well. Even though we didn't cite directly the Dubbo forum, you'll see that many of those issues were raised there and we have addressed them, probably not to the satisfaction - I'm happy to say we'd probably have to agree to disagree on some of the issues, but we did try and address those as much as we could in the report, given the constraints of our terms of reference as well, which I think you have picked up in your opening comments.

We are given our terms of reference, we can't control those. So we were limited to some extent about what we could say directly about the single desk, but we did try and pick up things like, you know, lender of last resort. The other point I think we should just mention is we did have meetings with the banks. I'm trying to recall, it was NAB - - -

DR CRAIK: I think it was NAB, and it was another one, but I can't remember the

other one as well. We didn't specifically ask them would they like to go back to the single desk, I acknowledge that, but we certainly did meet with them. We didn't sort of ask for an opinion. I guess, to be honest, I don't recall they actually offered an opinion about whether this was a better environment than the single desk or not. It was really about how they were operating in the current environment. That of course was mixed in with the point you made, John, about the fact that the southern part of Australia has been in drought for the last decade or so and how they have interacted with growers.

MS MacRAE: But they did talk a bit about access for growers to finance generally and the changes in the payment arrangements, in that, as we heard earlier, there's not so much up-front payment now. The banks would seem to be, from their point of view at least, saying they felt that their customer base was as strong as it had ever been and that they had adjusted their products to meet the new products that were available in the market; if you like, there was more flexibility, from their point of view, about what they could offer growers now, because growers could access more products. So it was kind of a meshing, I guess, of a new range of products that farmers were able to provide, and then a new range of products that the banks were able to offer sort of in complement to that. I think that's a fair summary. I don't know whether they'd say that, but I think that was their - it's true we didn't actually reflect that in the report, but we did have a meeting with them.

DR CRAIK: Picking up a few of your comments. Ben, you said in the beginning that first-up in our analysis of it we needed to understand the complexity and the geographic spread of wheat-growing. I didn't quite follow the point you were making there, right at the very beginning.

MR MASON (NSWFA): Well, there's many different areas obviously and associated risk with those different areas, to which John was alluding, and the seasons change and the complexity with that, with the geographic spread, and also the different segregations of the market.

DR CRAIK: Okay. So really it kind of reflects the overall complexity of growing wheat - - -

MR MASON (NSWFA): Of actually growing the wheat and capturing that product.

DR CRAIK: - - - and the geographic variability and everything that goes along with that.

MR RIDLEY (NSWFA): Yes. The thing with that too, Wendy, is some areas are more prone to a shower or two at harvest time, or rain. The very quality issue that Grain Trade Australia are trying to tamper with at the moment is this minimum test

weight, which at the moment is set at 74 kilograms per hectolitre, I think is the metric term for it, and they want to raise it to 76. It only takes a couple of rains at harvest time and all of a sudden you're hovering on the 74. If it goes below 76, there goes \$30 or \$40 a tonne that hasn't been deducted from the grower for the last 70 years. They tried it last year, Grain Trade Australia, and they tried it again this last harvest. The BRI have put in two papers saying that the science doesn't back up what they're trying to do it, and that's why you've got to take into account the geographical spread.

DR CRAIK: Okay. Just leading on to Grain Trade Australia, you've expressed some concern that there's few grower representatives on the committee, or whatever it is, the board, that you don't feel that the growers get a fair representation, or their views aren't taken into account at GTA. Is that the issue you have?

MR RIDLEY (NSWFA): Well, it certainly is, because they invited us as a token gesture, I'd say, to be part of their committees. I sat on their transport and handling there for 12 months, along with another New South Wales grower representing the Grain Growers Association and a chap in Victoria, and we were just voices in the wilderness. It's an association of traders, they look after their own interests; their bottom line is for their shareholders, not for the growers.

DR CRAIK: Getting back to access and accreditation, you believe that the WEA should benchmark exporters and publish that. When you're saying "benchmark", in what respect would you like them to benchmark?

MR RIDLEY (NSWFA): Certainly on their pool products, you know, to be able to compare one with the other and see how they're performing in the marketplace, see whether they're maintaining the quality standards that growers would expect them to maintain, into our traditional markets, so that we can still go on to capture those markets.

DR CRAIK: I haven't looked at it yet, but I notice Kondinin have put out a report on pools recently. I don't know whether that picks up the sorts of things that you're talking about. But presumably they're comparing a range of pools. I think that's what the purpose of the report does. Do you believe that accreditation should remain indefinitely?

MR RIDLEY (NSWFA): I think with nature of the beast it has to be indefinitely, to be quite honest, because, for the mere pittance it is costing to run this, weighed up against the risk to growers of these people not abiding by some accreditation, well, you know, I think it needs to stay in place, because we run the risks of not maintaining our quality, issues have already arisen about that; we run the risks of payment.

DR CRAIK: WEA doesn't do anything about quality, that's not one of their responsibilities at the moment.

MR RIDLEY (NSWFA): It should be, because our markets are at risk already because of quality issues, and we never had that problem before. You know, at odd times other countries would try and pull a swiftie on us, but AWB were strong enough to stare them out on it; whereas if you get smaller exporters, they won't be strong. I don't think it covers the guaranteed payment issue either, but there should be something put in place there, that we do have some guarantee of payment for our wheat that's put in their pools and that.

The port access is still pretty hot to trot. If all this has opened up, the people that are traders and have control of the ports will obviously look after their own shareholders. Why wouldn't they? I would if I was them.

DR CRAIK: Again, I take it you think the port access test should continue indefinitely and, Ben, you mentioned it should be enhanced. Do you have a view about precisely how it should be enhanced?

MR RIDLEY (NSWFA): Obviously they most probably had teething problems and I reiterate what I said earlier, what we've been exporting to date since deregulation is a pittance to what it will be. If you've got a number of exporters trying to access the ports with an exportable surplus of, say, 15 or 16 million tonnes, it's going to be a lot different scenario to what it's been the last couple of years. If I owned a port and I was trading grain, I know who would get preference if I was there. Me.

DR CRAIK: Okay.

MR MASON (NSWFA): It just stands to reason that if these facilities are privately owned that there needs to be a continuing open and transparent collation of the flexibility and capability to provide access for all.

MS MacRAE: GrainCorp was telling us this morning that they've got two-year agreements with all of the traders now in terms of agreed protocols and access for their ports there. Are you privileged to know any of details of those and do you think they're adequate?

MR MASON (NSWFA): I haven't seen the details.

MR RIDLEY (NSWFA): We don't have details but, as I said earlier, most would have been adequate for the two years of deregulation so far but may not be in the future when we get back to normal production.

MS MacRAE: So do you think then in that case there might be a case for an auction-type system on the east coast similar to what they have in WA to allocate the shipping space in the event that you might get a big harvest that exceeds capacity? From GrainCorp we heard this morning that they don't anticipate - at least in the foreseeable future - that there will be anything like a big enough crop that's going to exceed their capacity. So they were saying this first in, best dressed system seems to work pretty well if you're on the east coast and there's no need for an auction-type arrangement such as they have in WA. It quite all right, if you don't have a view on it - I just thought you might like to say - - -

MR RIDLEY (NSWFA): I think one of the problems too is there is so much grain being stored up-country now that when a trader has a ship coming in, all of a sudden he wants to get it through the system. Whereas before, with the quarterly marketing system we had, it was done in an orderly fashion.

DR CRAIK: Do you see storing grain up-country as a problem in terms of pests or pest infestation? Do you see that as the main problem with storing grain up-country?

MR MASON (NSWFA): Up-country or on farm?

DR CRAIK: Well, I suppose on farm, yes.

MR MASON (NSWFA): There's a risk with insect - phosphine and chlorpyrifos breakdown. The required aeration of two litres per second per tonne requires about a \$4 per tonne investment. What percentage of growers have got the resources available to implement that now after we've just been talking about 10 years of drought, so it's just forcing these costs back onto growers.

MR RIDLEY (NSWFA): I run a small feedlot and I've got people ringing me all the time that have got grain in the warehouse or stored on the farm that the weevils are starting to get just about pleading with me to take their grain. This is grain that was worth \$160 at harvest time and now it's worth about \$125. If you've got it in warehousing, the monthly charge is only a couple of bucks a tonne, but if you've got a thousand tonne there, it's a couple of thousand dollars a month.

DR CRAIK: Going back to the industry good functions, who do you think should provide those sorts of functions. Given that we don't have a single desk at the moment and the system is evolving, do you have a view about who should provide those functions in the new world?

MR RIDLEY (NSWFA): Unfortunately, NACMA, as they were back at the time of deregulation, were seen as a cheaper way of doing, I guess, insofar as they were the industry. But I think it's something that should be by someone independent and you should pay for it.

DR CRAIK: A separate organisation basically. Is that what you're saying?

MR RIDLEY (NSWFA): Yes, someone independent. You can't have the trader setting the freight rate or the freight differential and you can't have the trader setting the standards. It's got to be independent.

DR CRAIK: Would the growers be prepared to pay for that, do you think?

MR RIDLEY (NSWFA): Obviously they've got to. Someone's got to pay for it. There's no sense in cutting off your nose to spite your face. It's a business and that's all there is to it.

DR CRAIK: Do you have a view about setting up some kind of body to do it. Do New South Wales farmers have a view about an industry organisation and how that might be set up?

MR RIDLEY (NSWFA): Obviously there are different people for different jobs and I mentioned BRI and they put in two really good submissions to the change of the test weight standard and it was basically science and because of the submissions it's the only reason we most probably won the day, and the fact that growers opposed it.

DR CRAIK: Okay.

MR RIDLEY (NSWFA): It's interesting to note that the Grain Growers Association are leaning more towards that type of activity as well, so whether they could be a possibility because their membership are grain growers.

DR CRAIK: Yes, that's right.

MR RIDLEY (NSWFA): Ben was just mentioning that we're in the process of trying to establish another peak body for the grains industry.

DR CRAIK: This is the Grain Producers Association.

MR RIDLEY (NSWFA): Whether they could do some of them or not, it's most probably early days but there may be a role there, yes.

DR CRAIK: This is the proposed GPA. Is that what you're talking about?

MR RIDLEY (NSWFA): No it is NGA standing for National Grains Australia.

DR CRAIK: There's another one is there?

MR MASON (NSWFA): Yes.

DR CRAIK: Right, okay. One of the things that we struggled with in the draft report was that people say there should be a body set up to do these industry good functions and perhaps the government should fund it but if the government were inclined to fund it - and I guess they're generally not these days - the government would need to know who to fund, what organisation to fund and the difficulty is that we can't seem to get a single view or even just a couple of views on what that might be in a new world and that does create a bit of difficulty. I don't have any more questions. Thank you for coming and we look forward to reading your submissions. If after reading your submissions we've got any further questions, we'll come back to you.

MR MASON (NSWFA): We've got a copy of it here, if you'd like.

DR CRAIK: Thanks.

MS MacRAE: Thank you.

DR CRAIK: We might move now to the Grain Growers Association, Peter Flottman. If you could start off by identifying yourself and where you're from, Peter, for the record and then if you've got a few opening remarks, we'd be happy to hear them.

MR FLOTTMAN (GGA): Peter Flottman, chief executive officer of Grain Growers Association Ltd. Wendy, in terms of our overall comments, again I think the overview in our latest submission probably says it, that broadly we are supportive of the overall thrust of the draft report but I think there are particular areas that we have focused on and it was the topic of our discussion, I think, last time that we met at the commission as well in respect of trying to get that balance in the provision of appropriate services that actually support and complement competitive activity in the marketplace.

Again, we respectfully suggest the commission has underestimated not the capacity of the industry to address those issues but certainly the physical capacity to provide those services. It's our view that the industry hasn't actually matured post-deregulation to a point where it can actually find the right operating level, if you will, in respect of the provision of those sorts of services. We believe that is an issue that the industry also needs to address as much as a government needs to recognise in respect of how it helps develop and facilitate the next evolution of wheat the grain industry actually develops.

We obviously argue the case in here in respect of some of the attributes, I guess, that are causing concern in the industry. I think there are parallels in respect of provision of services to issues that the trade no doubt are raising and have already raised and there's been a fairly public debate in respect of things such as port access and the like. All of this is fundamentally about what's the right competitive tension in the industry that will actually make it effective, not only in its current form but more importantly in how it reshapes itself over the next five to 10 years into a industry where we ensure we actually don't get value leakage out of the industry but we're actually encouraging value creation and uplift in terms of the contribution of this industry to the national GDP.

As an overarching comment, Wendy, we're concerned that we still have the characteristics of an industry that hasn't quite sorted itself out. I think there's a risk if you leave the industry to sort itself out that we may find imbalances in market power. Having said that, we support an industry that ultimately needs to have the right self-regulatory process there but to date I don't think we've quite got a point where there's a level of confidence that the industry can get on the trajectory by itself.

DR CRAIK: Thanks for that, Peter. I guess the question is and the question that government will be interested in, how long do you think regulation - obviously it's a judgment call at the end of the day like our five years on the access undertaking was

a judgment call, we weigh up the pros and cons. Do you have a view as to how long?

MR FLOTTMAN (GGA): I don't think there's any particular science to it but I think what hasn't happened to date is that the industry, nor government, have actually set any performance benchmarks, if you like, and actually set horizons where there's an expectation that systems and/or market behaviour should look like this at a certain point. It's no different to setting performance criteria for a company in that sense. So some of the things that we're certainly contemplating in respect of providing support to the industry probably do have a five to seven-year horizon. A lot of quality based, market based research - if you're funding today will have outcomes that don't get delivered for the next two, three, four years. I think there are other elements of the industry that can be resolved in a far shorter time frame.

The point, I guess, we were making in our submission is that while the current architecture isn't perfect, you need to be very careful before you start unwinding that in the absence of having another framework to grow the industry into. One of the comments, I think, in the report related to the performance of the export task post-deregulation. I think it's hardly surprising that you've got a fairly effective export task of itself given that the multinationals have been trading grain out of Australia for the last 40 years, including wheat. So a lot of the trade that AWB used to execute was actually done via third parties anyway. At that level I think it's a fairly straightforward comment that, of course, the industry stepped up fairly efficiently but what we haven't yet seen is whether the relative market behaviours as a result of markets starting to open up are the ones we actually need and are effective enough at a point where we get the right equity and balance in the supply chain.

I think that's a conundrum that faces most industry when they're deregulating is trying to create the right competitive pressures in the marketplace to allow the industry to perform and providing sufficient frameworks around it to ensure that it performs in a way where everybody fundamentally has an opportunity to actually provide an upside to the industry as well as extracting commercial value.

DR CRAIK: The issue of information provision and you've put a fair bit of thought into that, as you acknowledge it's a difficult issue and I guess ABS have been funded by the government and ABARE to provide a level of information that has been quite useful and I guess probably exceeded what was generally available on a regular basis prior to deregulation. In fact that level of information, even though it's four to six weeks late, wasn't there before deregulation.

MR FLOTTMAN (GGA): Yes.

DR CRAIK: There is a fair amount of comment that others in the industry could do it better and that perhaps the government should at least pay for it for a longer period

of time. I guess the government's view would be, "Well, we put up money for three years, how many more three-year periods are we going to" - I guess, the question is, what's the argument back to the government to say, "Okay, you've done the first three years but we need another X years." What's the argument back to the government to find the money again?

MR FLOTTMAN (GGA): Part of what we would argue is the provision of transitional funding to date has certainly formed a purpose, but if there's contemplation of further transitional funding then there clearly needs to be a strong business case around that and time frames and performance criteria set against it. We certainly support the notion of compulsory acquisition of trade data, at least as a useful fallback in respect of getting some conformity in the industry. I would suggest that the industry overall has probably underestimated to quite an extent the degree of difficulty in actually achieving some commonality of views about the provision of some of these services. Maybe that's actually a legacy of the funding of itself in some respects anyway. In other words, about 30 per cent roughly of government funding went into the compulsory acquisition of trade data. As a percentage of the total transitional funding you would argue that's overweight, which probably also suggests that the transitional funding was underweight in other areas at the same time.

But, again, where we found ourselves is beyond a lot of the industry's expectations in terms of where we felt the industry would have sorted things out and it hasn't.

DR CRAIK: Did you think the industry would sort itself out in those sorts of areas and over a three-year period?

MR FLOTTMAN (GGA): Yes, I think it was the original expectation that we probably would be far more advanced than what we are at the moment. So some of the behavioural characteristics that I think I referenced last time we presented at the commission are still a little endemic in some areas. There is clearly concern around the relative balance of market power at the moment and where that may actually push itself. While that's an issue, then everything else subordinates to that. So the provision of information at a industry level becomes a victim of that circumstance as well. We have found it, in the production of a national crop quality report, quite problematic to actually get the right level of industry support to produce that report. As we argue in this submission, we don't believe that the quality of grain is commercially excludable, given that 99 per cent of the crop is actually traded on the same specs by all parties. Therefore, within reason, there's a need to actually provide independent information that actually complements the trade channels to market and also as third party validation for consumers.

Against the background of the sort of behaviours we discussed previously and

some of those concerns in respect of things such as port access and the like, the provision of that type of information or the will of the industry to want to provide it is extremely constrained. It gets down to a lack of general agreement around market behaviours, general issues around trust in the industry and the competitive behaviours, I guess, are ones where on the one hand we certainly need to promote the right competition, on the other hand we need to make sure we're not actually fostering the wrong competition. So I think in that respect I think the issue of industry services, if you like, has, and still is to some degree a little bit politicised as well and you get extremities of views at either end. It depends who's holding the bigger stick.

So in that sense, yes, I think there was a reasonable expectation that there would be some level of industry consensus over what support services would be required that were appropriate, that were not interventionist but actually provided the appropriate support and kept the competitive point of difference, if you like, for Australian wheat exports at the right level, but we haven't seen that yet.

DR CRAIK: So how would you pitch your case to government to get more money to get, say, a levy up? There are a couple of options in relation to the levy. There's at least two mechanisms in place now with existing levies in the grain industry and I suppose you could use either of them or set up a new one. So the government says, "Well, what do we do with this money when it's raised? Who do we give it to and what are we asking him to do and what support does the industry for whoever it is we give it to?" The question, it seems to me, is a bit of a difficult one because government is unlikely to say, "We're likely to have X million dollars a year for the next, say, three to five years." Who do they give it to and what do they say to them in terms of achieving these things? That seems to be one of the major challenges, it seems to me.

MR FLOTTMAN (GGA): It is. Again this paper identified what we've seen as, I guess, some developments, even particularly since we last were here, where there is an increasing convergence on a view and amongst those seven key areas that we've identified as activities there you will still get diverging views in terms of timeliness of that data, how it might impact positively or otherwise on supply chain. There is no one entity that you would point to, although we do obviously stake a claim at the end of this submission. But I think it's more a case of you need an industry collective to make something like this work on a virtual basis.

DR CRAIK: So what does the government do if there isn't such a thing? There's no such beast at the moment.

MR FLOTTMAN (GGA): Industry has to create that case to actually take to government.

MS MacRAE: It's kind of what comes first, the chicken or the egg. I sense at the moment that there's a lot of angst within at least parts of the industry that there isn't a national body and they must try and get one together because there's this industry and I sense that throw a bit of government money in there and people are going to say, "Oh, look, the pressure's off a bit, we're not going to have to worry, it's not such a rush. We've got a bit of money to get us through this next little stage." To the extent that you think it's necessary that the industry get together to do these things - and even that has got a divergence of views, as we heard from GrainCorp this morning - but to the extent that people think that's an important goal and they're going to pursue it, providing government money, in my view, might even actually impede that process just because the pressure doesn't seem to be there.

Single Vision seemed to be a bit of a case in point where people were prepared to keep going because there was government money to keep it going and as soon as the government money ran out, "Now it's going to fall apart." I guess it provides an incentive for people to do something, put some government money there, "Okay, we've got some money, we'll get some money if we get together." But if as soon as the government says, "We're not providing money any more," people then say, "Well, our reason for being together has disappeared," it hasn't met the requirements that you really wanted and given that many of these things - I mean, I'm interested in views that things like having a minister involved in a wheat quality assurance scheme, resuscitating that when it seemed that - at least from what we have heard in many of the submissions - there's quite a level of support for have self-regulation for a quality certification process.

MR FLOTTMAN (GGA): Yes.

MS MacRAE: I was reading your submission as having a lot of government intervention, a lot of extra regulation and whether or not that was really the best answer to some of these things when I think it's quite possible the government, in getting involved in some of these things, might end up with a solution that the industry would actually prefer not to have, that if we could have regulated it ourselves we would have done it differently. I don't know if you want to say anything generally about that, but the insurance was one that jumped out at me that it seemed to me we had a lot of support for the industry doing itself rather than having a minister being involved in that process.

MR FLOTTMAN (GGA): I hoped you wouldn't interpret the submission as one where we are recommending re-regulation because we're not. What we're actually arguing the case about is a period of transition which is still in play and I think even your own report recognises a couple of things that the appropriate market behaviours haven't yet become institutionalised. However, the ability of a minister at arm's length to provide a transitional framework I think is something that should be contemplated. You're right, Angela, to a degree you could argue simplistically if you

hand over the cash then you get another free rider effect. We've already got a free rider effect in the industry right now. People are very happy for the GGA to go and do things as long as we keep funding it.

You could argue that an appropriate financial catalyst with performance criteria against it is probably a much more appropriate way. I don't think the industry should expect and there's no way the government would contemplate providing any form of recommendation that provided funds back into the industry without it being conditional and the condition has to be that achieves certain behavioural outcomes and commercial relevance to the industry over a period of time. You don't get anything for nothing. I think the industry is certainly lacking a catalyst and I think the industry is also getting a little confused and perhaps politicising issues around producer representation as a national entity as distinct from a services platform. I think they're two totally different things. In both cases it's a working towards solution rather than we actually have the solution right now.

MS MacRAE: Do you think it's partly a difference of view over what should be regarded pre-competitive services and what's post-competitive?

MR FLOTTMAN (GGA): Yes.

MS MacRAE: Just drawing again from GrainCorp this morning, they're saying, "Look, basically all of this is post-competitive, so we're doing all the things that AWB used to do and they did it because it was commercial and the reason they did it is they were the only player in the market." So a lot of these things will just fall out because it's going to be in the interests of the players to do a lot of these things and some of your issues are definitely pre-competitive. Things like information collection and dissemination would be one of those but in terms of things like quality and trade advocacy - trade advocacy probably not so much but the general promotion, the brand and all those things there is a view that says, "Look, you don't need anything special for that, that will happen anyway."

MR FLOTTMAN (GGA): We actually don't mention promotional branding. You'll note we're quite clear - - -

MS MacRAE: It's the quality stuff that you're talking about.

MR FLOTTMAN (GGA): There are certainly issues around product and integrity, irrespective of the comments from bulk handlers and all that. Again, I think the issue, particularly the trade war is the quality and blending arbitrage value actually resides within those organisations rather than necessarily benefiting supply chain. So product integrity ultimately, depending on whatever market you actually go to, is one where I don't think we've actually got the balance right in the marketplace at the moment. GrainCorp interestingly have also been very supportive of GGA producing

a crop quality report on an independent basis. So have we got the right interpretation and the right balance on it yet? Absolutely not. But we're starting to see broader agreement around those seven areas that we've identified in our submission.

The difficulty is trying to get that to a point where you can actually service around that and also have a process which allows the industry to grow into the next iteration of provision of those services that actually support and add value to a contestable marketplace as opposed to what - I think there are extremes of the argument here, Angela, and you'll get extremes where there is a view that any intervention is inappropriate and the response will be overcooked, when the reality is that the market does need a level of support, but it has to be done in conjunction with those who are actually taking the risk, if you like, on the trade itself anyway. That also includes producers.

MS MacRAE: Yes. Just in relation to wheat classification, we've heard a little bit about some of the proposals that are coming out obviously in this transition period again. What would your view be about that and to the extent that classification gets tied up with receival standards - I don't know if you were here for the previous discussion - but how do you see the role of GTA in that process. Do you have a view about that?

MR FLOTTMAN (GGA): Look, we do and we were involved in the last industry consult with the Wheat Classification Council. I guess our view on clarification is one of the few things that the industry is starting to agree on so we should be encouraged by that. We don't support the notion of having a stand-alone entity for the classification process. From a legal perspective it's probably necessary to have an entity that allows legal recourse but it doesn't need to be a stand-alone entity. If it were, that probably leads to some other complications in respect of how does that entity actually intersect and interact with and where does it source information from and the like from the rest of the industry?

There are couple of options, I guess. One is the notion of housing under Grain Trade Australia is one that was broadly supported through that last industry consult meeting on the proviso that it was a separate legal entity and, therefore, allowed the plant breeding community - particularly the rigour, if you like, around recourse - that it shouldn't be treated as another standard GTA-type committee, it clearly needed independent expertise to actually manage that council. The council itself is purely a strategic function that oversees the actual panel which, as you know, at the moment is currently conducted by BRI on behalf of GRDC. So we actually see that particular function sitting outside of GTA. But I think the logic of having a strong industry relationship between classification process and standard setting is paramount and it's actually a very good example of where this industry can get to if it allows itself and we have some stimulus to make that happen.

We are currently undertaking some macro work at the moment and in fact the initial draft report has come out called What The World Wants From Australian Wheat.

DR CRAIK: It's very good.

MR FLOTTMAN (GGA): Those types of activities, we would argue, are things that need to happen on a constant basis for broader industry appeal and again, we're starting to get support, particularly from the trade in respect of those types of activities. Logically that sort of information should feed into a classification process as a strategic level which then allows you to start shaping your receival standards and outturn standards. GGA has been an advocate for some time in respect of a need to look at our total standard setting process. It's not a criticism of the process per se within the industry body called GTA, all we're simply flagging is that this industry needs to become more pre-emptive in how it uses this information to shape our effort and our business at a contractual level using strategic data to feed into that.

So we think there is certainly a lot of room to move in respect to how classification can be handled moving forward in the future. Strictly speaking right now the classification process under contract to GRDC has been struck in a way which essentially obliged BRI to manage it on an as-is basis. In other words, "AWB used to do this way, we'll put it in a holding pattern for two years and that's what you'll do." That's a little frustrating from our perspective because we can certainly see where that process can go. We've been in constant dialogue with GTA, grain exporters and the like and other industry organisations, particularly around classification, again, because it's fundamentally one of the few things that industry can agree on.

MS MacRAE: Yes.

MR FLOTTMAN (GGA): What it hasn't agreed on yet is how it might fund it moving forward. So once again we keep on coming back to one step up, two steps back. We're starting to get a little consensus on a function. There are those who would argue - some of the exporters probably and perhaps some of the bulk handlers - that classification is probably the only industry good service you need supplied out there and we would strongly disagree with that. But it's not the centric activity, but it's certainly one of the core activities. But it's a good example of where the industry can start collaborating collectively, including the producer groups, to actually start shaping how we intake grain, how we outturn it in response to what we're seeing in global market trends.

DR CRAIK: As I understand it the proposal is that the government fund a couple more years under the proposed arrangements involving GTA and WCC.

MR FLOTTMAN (GGA): I think that's one of the options that is being contemplated at the moment. But again, from my perspective, if I was government I wouldn't be putting anything forward like that unless there was some clear pathway and exit strategy for government's financial support. I think that is only fair to government but it is also something that's actually required for the industry itself. It needs to think clearly and plan out how it's going to get itself to a point and that's one of the fundamental flaws in where we've got to so far, that a lot of this stuff has been left floating around, the impact of deregulation, rather than actually being core to it.

DR CRAIK: I think that's a fair comment. I don't think I've got any more questions. I think your views are quite clear, Peter, and the direction that you're going or suggesting is quite clear. It's a very difficult issue to grapple with in terms of - - -

MR FLOTTMAN (GGA): As I discussed with you a few weeks back, Wendy, it's never been an issue whether the industry has the technical capacity and physical capacity to deliver in these areas, it's whether they've got the will to address it and how it gets addressed the right way. I think the national interest case fundamentally gets down to where this industry can create value in the future based on the investments it is prepared to make today. This is not about niche marketing per se, it's fundamentally about how you don't, I guess, subordinate yourself to what we see is increasing price elasticities in global grain markets, particularly if you've got new entrants there.

If you're seeing a 30 to 40 dollar spread between a Black Sea market and Australian wheat into Indonesia, you can't possibly claw back \$40 but you can certainly claw back five to 10 maybe in relative terms, all of which is saying an attitude to product integrity and the way we execute it and how that's embedded in what we do, how we fund research, what that responds to, that gives everybody uplift which is fundamentally trying to achieve and what we think the industry needs to think about before we contemplate the next steps in terms of the regulatory process we have at the moment.

DR CRAIK: Just a last question and we're a bit constrained because of the Productivity Commission's R and D inquiry that is going on right now, do you think there's a modification to the GRDC structure where it's more like MLA and Dairy Australia would be useful thing for the grain industry where GRDC can pick up the marketing and information arms? I know that competes some of your own - - -

MR FLOTTMAN (GGA): No, I don't think it does at all. I think it's actually complementary. Again, it's a working towards possibility. I think if you try to put a view out to the industry now that we need an MLA tomorrow, you'd have anarchy. You just wouldn't get any traction with it. Again, it's the preparedness of the industry to actually grow into the next kind of solution that we're trying to look for.

We've always been of the view that GRDC's stakeholders are very clear, government and producers, they have a very clear remit in respect of what they bring to the marketplace, but we'd also argue that in a contestable marketplace they've probably lost their one primary channel to market which was a monopoly and it's appropriate to actually re-engage and look at varying structures or various entities out there that can actually help provide that for them.

So, yes, I think there is an option there that the industry might want to contemplate, I just don't think it's ready for it today.

DR CRAIK: Okay. Well, thanks very much, Peter. We might adjourn now for lunch and Glencore are 2 o'clock. We will resume at 2 o'clock.

(Luncheon adjournment)

DR CRAIK: We'll resume, thank you. Chris and Adam, if you could identify yourselves and your organisation for the record and then if you've got a few introductory remarks, we'd be happy to hear them.

MR BROOKS (GG): Thanks, Wendy. Chris Brooks is my name, I'm managing director Glencore Grain Pty Ltd.

MR BISITS (GG): I'm Adam Bisits, a solicitor, I'm acting for Glencore Grain in relation to this; a solicitor from Melbourne and Sydney.

DR CRAIK: Right.

MR BROOKS (GG): Adam helped me draft this submission specifically because he has been involved all the way through with regards to negotiating these port access terminal agreements with the three bulk handling companies. Just kicking off on the reason that we wanted to specifically make comment to the Productivity Commission to clarify some of these misnomers and better elaborate on the logistical operations of some of these claims so there's no illusion and you fully understand from the other side of the fence, so to speak, with private traders that are trying to export grain out of this country through those facilities.

One of the main issues to me is basically the system specifically requires strong, industry-tailored, enforceable oversight to remain in place just to better guarantee a commercial open access to these assets to export grain and as has been proven beyond doubt in the past that they are difficult dealing with and a lot of the reason why you've heard very little from a lot of the trade because they have been locked in commercial negotiation or debate more so in trying to get some commercial agreement to operate which I've got to tell you out of frustration has not been all that successful and has proven that these guys can be difficult.

There has been massive manipulation, there has been a deliberate disadvantage of the trade or the private trade other than the bulk handling companies and what we consider total disrespect for some of their claims of grower returns and existing legislation and undertaking agreements that they purport to give. As you know, each of these ports is an absolute monopoly. They control the logistics all through those states. They control the country storage and by obvious definition in the access undertakings to those ports they control the ports but they are all in competition to the market as they're trying to access those ports.

The most successful negotiation that we have had in dealing with these bulk handling companies, which I'll elaborate on further, was specifically, singularly, and only because of the existing Wheat Export Authority or WEMA access undertakings which really forced it to the table, as you can see in our submission. The second part of my submission is to do with Grain Express and the logistics monopoly that has

been gifted to a Western Australia bulk handling company and supported or allowed by ACCC to happen. Just to better explain Grain Express, which seems quite contradictory to CBH's own explanation, Grain Express is a licence given to the CBH to run a complete monopoly of all land freight in Western Australia, both road and rail. They effectively take ownership of all the grain delivered into the system at all of the country sites and they then have an absolute monopoly on moving it by road or by rail.

Neither growers nor marketers can access that grain up-country which effectively eliminates automatically by prohibition of charges they levy against us that we cannot access alternative ports with grain in their store, we cannot access alternative bulk container packing facilities because of their outturn charges and we cannot access any of the Western Australian domestic markets because of this restrictive outturn fee. CBH freight rates, interestingly enough, as we'll elaborate further - because they control all those freights and they use every road carrier in Western Australia and they force them to compete against one another - have a very efficient road transport leg. I mean, the Western Australian road transport industry are very efficient, the most efficient in mainland Australia, and because there's competition for this work, neither the growers nor the marketers get to see this because there is a difference between what the road carriers charge and what the marketers and growers are charged by CBH, so any of those efficiencies are not passed on. Whereas in the rail freight, where they do control as well, they have contract with a rail service provider who charge out the use of these assets on a lease basis and they utilise it to the best of their advantage and those costs reductions or savings aren't passed on to either grower or marketer and, as expected, those rail rates are the highest in the country compared with other rail service providers.

CBH, by taking over all this freight, have access to and control and retain all the freight arbs, which I'll explain later. Freight arbitrage is, I'm sure, a made up word by the grain industry but it is basically a selective picking of stocks closest to end user markets for economic gain. Nobody has access to that except CBH and we were advised by CBH in recent discussions that they intended to take that one step further and make it quite official that they would take all quality arbs quite simply where they receive all grain and they will outturn lowest quality spec to some and higher quality specs to others as they see fit, which we can only assume we would be receiving the rough end of the stick.

So Grain Express is the reason why we're against it. It prohibits, just by the mere nature of a monopoly and the licensing that they enjoy from ACCC, absolutely and totally prohibits the development of any competing freight infrastructure. It prohibits any competing container packing infrastructure and it removes any potential or possibility for growers or private companies to develop private storage because they cannot access the system, either ex-farm or into even port facilities. So it protects CBH from anyone ever wanting to develop any competition in Western

Australia.

The third point that I wanted to touch on is the pool monitoring and whilst there have been pools for many years, there was a monopoly, as you know, with the Wheat Board pool, the price that they offered they actually did a very good job to try to justify that estimate to growers, based on foreign exchange and international markets at the time, less costs. Since deregulation there are various other pool operators, more specifically bulk handlers but not only bulk handlers, there are other companies. My other concern is the pricing mechanism is misleading to growers. People quote at a high level, like a higher price and then in the small print go on to explain that is delivered in 50-kilo bags into Saudi Arabia or something similar.

It should be a consistent unit, be it a fob or a track or a one-off basis so a grower can compare apples with apples, as is the cash market is all quoted in track basis and I think that the monitoring of these pools, whilst I'm saying we will need to retain the services of WEA to supervise open access with these bulk handling companies, I think they are not required, as far as I'm concerned, with the credit application or the permit application but if there's any surplus capacity there, I would think they would be a better service to the industry to supervise these pool estimates and no reason because they have the capacity and they have the personnel there, they have the expertise to understand and know how to monitor, supervise and investigate claimed pool returns against market prices, knowing what the costs and what the foreign exchange rates are at the time. So you will get some clarity and some more reasonable pool estimates that are achievable rather than explain to growers 12 months down the track why he's \$100 less than what he thought he was going to get which is a bit too late then when the grower has already put it in the pool and missed the higher cash prices.

So that's the brief covering note of mine, Wendy, and I'm happy to work through our submission. There are a few points I thought might need to be elaborated or expanded on because of the complexities.

DR CRAIK: Thank you. Can I just ask before moving onto more of the stuff in your submission, one of the things that we were looking at was the costs of accreditation to exporters and we had information from the bulk handling companies but we haven't had much information from non-bulk handling companies who also export and so we'd be interested, if you're prepared to tell us, as to how much you estimate it costs Glencore to apply for and get accreditation and renewal.

MR BROOKS (GG): Wendy, not being a public listed company that we are, we're not accustomed to - - -

DR CRAIK: Giving away information.

MR BROOKS (GG): Not giving away information but even having access to a lot of that very personal data that they wanted and we don't have auditors all over us. But my CFO made that submission himself and apart from a bit of time in collecting the relevant data they required and having to give it away, which is not common for us, it was insignificant. We just had to prove that we were credible and capable and financially stable.

DR CRAIK: So you wouldn't regard it as a massive cost?

MR BROOKS (GG): Insignificant by comparison to a lot of other problems I could - - -

DR CRAIK: Not in the vicinity of hundreds of thousands of dollars?

MR BROOKS (GG): No. He's very well paid, I can assure you, but it didn't take him long.

DR CRAIK: Thank you. Moving on to some of the issues that you raised, in relation to the CBH auction system. presumably you've seen the suggested modifications that CBH have put out for the coming year on the auction system.

MR BROOKS (GG): That list that we've been sending to them for 12 months?

DR CRAIK: Yes. Does that meet some of your concerns?

MR BROOKS (GG): It meets a lot of our concerns but there's no reason why it can't be implemented a long way before that. It's a lot of grain still to be shipped and a lot of shipping slots that needs some variation now to avoid a lot of expensive costs that, despite what they claim, will be worn by growers because most of the remaining tonnage in the CBH system is pool tonnage and those costs will come off the grower to CBH's storage and handling company.

DR CRAIK: Okay. In relation to the current linkage between the auction system and Grain Express, under the existing system you have to nominate very quickly whether you're going to use Grain Express, even if you're not going to use it for a year or so, are the new arrangements where you only have to nominate whatever it is, 30 days or 22 days, will they improve that linkage? Will they reduce that level of linkage between the two? Will that provide any opportunity, I guess I'm trying to ask, for using an alternative supply chain?

MR BROOKS (GG): Wendy, I think a delayed nomination of the logistics system with Grain Express as opposed to Port Direct or something.

DR CRAIK: Whatever it is, yes.

MR BROOKS (GG): If it's left to 30 days, we would possibly be in a better position than to make alternative arrangements at least to move it, but as it is at the moment you've got to nominate within five days of booking the shipping period which is the shipping period is booked before the crop is harvested, so you don't actually know what you've got, where you've got and it's impossible to enter into any other method other than be forced into Grain Express. The fact that you don't have to nominate it for 30 days is insignificant by the fact that they still have the monopoly and you can't access the stock anywhere in the country that we own. So all the other issues that I wanted to point out with regards to us being able to access domestic markets, us being able to pack it ourselves, us being able to cart it ourselves from the respective sites to get freight arb or to get the right quality grain that we've bought is still not feasible.

The purpose of Grain Express is specifically designed to push competition out and to put us further away from the grower or the end user, whereas they control all of that logistics.

DR CRAIK: You went to the ACCC about Grain Express, didn't you?

MR BROOKS (GG): Yes.

DR CRAIK: What happened?

MR BROOKS (GG): I have yet to get a return or a response.

DR CRAIK: So when did you go to them first?

MR BROOKS (GG): Several times.

MR BISITS (GG): We went there on 9 August with a 26-page submission which took a lot of work and we've got no response to it.

DR CRAIK: Right.

MR BISITS (GG): None. In connection with the preparation for this, we contacted them just to see where it was, well, we did receive an apology. They still haven't responded to the submission but we were told that a commissioner of the commission no less had had discussions with CBH on Grain Express - - -

DR CRAIK: A commissioner of the ACCC?

MR BISITS (GG): Yes. We deal with lower people, CBH deals directly with a commissioner. We were told that certain modifications were being considered or had

been made or promised concerning Grain Express and that commissioner therefore didn't want to do anything for the time being until perhaps there was another season of operation. We then asked, "What were these modifications or proposals?" and we still haven't got them. It's a very one-sided treatment. Where that's up to is that we're concentrating on your commission at the moment, but as soon as we're free after that, then Mr Brooks will have a meeting with the commission to update them on the problems with Grain Express which continue. In financial terms, they are that last year, the demurrage and surge charges exceeded \$2 million and they're still outstanding. This year, the demurrage charges incurred as a result of Grains Express delays are of the order of \$300,000.

DR CRAIK: I got that from the submission, yes.

MR BISITS (GG): So that's where it's up to, yes.

DR CRAIK: So are you seeking review of the authorisation or - - -

MR BROOKS (GG): We objected strongly to it initially and then made further submissions to remove it because we had quite substantial claims that would clearly justify ACCC revoking that - what have they given?

DR CRAIK: Notification.

MR BROOKS (GG): Yes, notification.

DR CRAIK: Notification of exclusive dealings.

MR BROOKS (GG): Yes, third party forcing - - -

DR CRAIK: Is it possible for us to get a copy of that in confidence?

MR BISITS (GG): Their submission?

DR CRAIK: Yes, the ACCC.

MR BISITS (GG): Yes, no problem. It's actually on their web site.

DR CRAIK: Is it? Okay.

MR BISITS (GG): But we'll get you one.

DR CRAIK: This is the one you send in August?

MR BISITS (GG): Yes.

DR CRAIK: If it's on their web site, we'll chase that up.

MS MacRAE: Are you aware of any other traders that have made any complaint against Grain Express? Obviously if you say no, it doesn't mean there hasn't been any, I'm just wondering if you're aware of anyone else.

MR BROOKS (GG): I do know, but I'm just trying to think actually as to whether it was Cargill or Dreyfus. I mean, it was one of those guys who were members of the Australian Grain Exporters Association, which I am. We've discussed it at length there and the AGEA in general was anti the Grain Express and made submissions to that effect. Myself and one other made separate submissions. But I really couldn't honestly tell you exactly which one it was, but if not Cargill, it was Dreyfus.

DR CRAIK: We're meeting with Cargill shortly, so we can ask them. So in WA, to get things competitive, what would you like to see in Western Australia?

MR BROOKS (GG): I'd like to build a port in Western Australia. Then we'd see who's who in the zoo. I would like to be able to hire the services of another rail company who are presently in Western Australia and offering their services. There are competing rail providers in the mining business all over Western Australia who work very economically. Every part of the business that I've ever been involved in and the only thing that ever drives any efficiency is competition, freight storage or anything else and we would like to be able to work in an environment where it's now deregulated to trade, where it's deregulated to cart and deregulated to ship it.

Now, it's just not physically possible to implement any infrastructure from any company in the state of Western Australia under the existing Grain Express monopoly. You're locked out of all three. I mean, to build a port, just to explain that further, if you went and spent \$100 million building a port in, say, Kwinana, and we brought the grain into the existing CBH sites, they just would refuse to deliver it because they have the monopoly to cart to their ports and then they would charge you an \$8.50 outturn fee and you'd have to pay another \$8 road fee to cart it to your port which is \$16 out of the money, which is less than the cost of actually loading it on the boat, so it defeats the purpose. That's the problem we have. If there was no Grain Express - and we run fleets of our trucks, have done for years. In the massive delay in early 2009 when there was all the problems and all this demurrage was incurred at the \$2 million, the first year of Grain Express, we had ships sitting in the port, we had grain that we'd bought up-country and we offered to send a fleet of 50 to a hundred trucks over there to cart our grain to those ports. It was rejected, refused, not allowed, not possible under Grain Express. So we weren't able to move it ourselves but then under this Grain Express monopoly, they turned around and charged us approximately \$5 a tonne extra, over and above the normal freight rate, for a surge charge, because they say in their own submission that the surge capacity

was not a restriction of capacity at the ports, it was a restriction of the logistics, which they have a monopoly to deal with and no-one else can get involved which is just unreasonable.

MS MacRAE: Just in relation to South Australia - and I might be taking you off the point a bit, so I'm happy to come back to it again - but they don't have an authorisation or a notification but they still seem to be able to have a near monopoly on the supply chain. So if you manage to get the authorisation or notification in Western Australia removed, do you think that would make a substantive difference? I guess what I'm saying is - - -

MR BROOKS (GG): In the case of South Australia there's a fee and it's not a prohibited fee. If you want to bring grain in with your own trucks, you can, at about \$2 a tonne, give or take 20 cents, whether it's 2.20 or 1.80 or something.

MS MacRAE: Because they do still do a lot of - I mean, a lot of it does go through Export Select still, doesn't it?

MR BROOKS (GG): Yes. We send our own trucks over there to cart from private stores, ex-farm and it's not prohibitive. In my eyes, in my opinion, they can justify half of it. I mean, they have a responsibility to personally sample and check every truck for quality and for hygiene. I mean, the last thing we want, they want, anyone wants, is a contaminated port of insects. So if they want to personally check each truck, and they claim that that costs them money - and I would say it probably costs \$1 a tonne - they charge \$2 and I'm not going to fight them over a dollar - we're comfortable that we can store it and cart it, collectively, \$2 a tonne less than what they charge us.

DR CRAIK: So do you ship all your grain in South Australia direct to port? Do you take all your grain in South Australia pretty much direct to port?

MR BROOKS (GG): We used to. I really couldn't tell you that without referring to figures, but we still do move a lot ourselves from either private storage, or by road even, from ABB storage, rather than incur demurrage bills. I mean, when there's a vessel sitting there costing \$100,000 a day, it's worthwhile taking some control.

DR CRAIK: So the issues in SA aren't as prohibitive in terms of competition and the supply chain as they are in WA?

MR BROOKS (GG): Not as prohibitive, no. In the case of Western Australia, the worst part, Angela, if you could just put yourself in my position, if we buy 50,000 tonnes of canola, as was the case that I'm talking about, in the port of Geraldton from the growers and we obviously paid a higher price than CBH to get it, and we're locked into their storage and handling agreement to pay them whatever

exorbitant fees they want to load the boat and we're locked into paying them this freight as and when they want to move it. So they take full control of the stock up-country and they are responsible for the freight and they're responsible to load the ship. Now, I have to pre-book a shipping slot under this auction system back before harvest, in October sometime, and I have to pay a premium to get it for that period and I have to prepay it. So I've booked and paid for the freight, the loading and the storage and the grain, and I nominate a vessel in 30 days, as is required, and my boat comes along and it sits there two weeks longer than is required and I incur \$300,000 in demurrage. Now, what part of that am I responsible for? They have complete control over all of that. But if their vessels were loading in front of it, in time, it would incur no demurrage. So you can see why you get a little testy about it.

MR BISITS (GG): Excuse me, Commissioner Craik, if I could just mention, in answer to your question about what you would like to see in Western Australia, in item (f) at the very end of Glencore's submission, as part of the regulatory changes sought, was listed this proposal:

Transport arrangements from up-country to a port terminal are to be at the choice of the exporter and not specified by the company or an associate of the company that operates the port terminal.

Now, something as simple as that spells out the rule under which everybody operates so clearly, that Glencore is then free to organise its transport; CBH, on the other hand, is not allowed to stop Glencore doing that. That's the issue.

DR CRAIK: Good. Thanks for that. Sorry we're hopping around a bit, but in relationship to the shipping issues in South Australia again you're concerned about Viterra and booking all the shipping slots and cancelling those shipping slots, and again in South Australia you've proposed that the booking fee be paid into an independent fund so that if they did cancel then they would lose some of that money, as opposed to the right hand paying it the left hand.

MR BROOKS (GC): It's an interesting scenario, Wendy, in that, annoyingly, these three companies have strategically tried three different methods to stifle the competition. In the case of GrainCorp they would just not negotiate or provide any workable agreement until well after harvest. In the case of Viterra they booked out the stem, to prohibit anyone else coming in. In the case of the Western Australians, as we have pointed out our problems there are with inflexibility in these shipping slots. In the case of Western Australia, where they have these shipping slots booked and haven't shipped, those funds and those penalties where they don't allow the flexibility, we assume still apply to them, we don't know so.

The penalties are sort of in the order of \$30 per tonne. Subsequently, it's having a drastic effect on the returns to growers. These are the beloved growers that

they would have you believe that they're looking after and coveting with maximising their returns. People would rather give that \$30 to an Indonesian or a Chinese buyer in preference to giving it to CBH. Subsequently, people who have booked shipping slots and paid the \$30 are going into Australian markets and underselling that market under world market prices to the tune of that amount so that they can actually make a sale and use that shipping slot, because CBH won't allow them to delay it for a month.

DR CRAIK: So are they losing money?

MR BROOKS (GC): Of course. They're going to lose \$30 and pay it to CBH. I mean, I personally would rather give \$29 of it to a Chinaman than give any of it to CBH, and that's what you're seeing, a further depression. It's losing money to the private trade, but what it's doing is it's lowering the world market price for Australian grain, and most of the grain still in Australia that is unsold is owned by growers in pools. So their returns have dropped \$30.

In the case of CBH, for the shipping slots that they have, assuming they pay the same penalty from their trading arm to their storage arm - and I don't know this, but we know what they bought, they have told everybody they bought 50 per cent of the crop, and we know what they shipped, but we're assuming there's about two million tonne of stock left in their name, in their pool, and if they're paying \$30 a tonne to their storage and handling arm, that's \$60 million. That 60 million comes out of those growers' pool returns. CBH storage and handling still get the money. So the grower has not only \$30 extra in costs but he is going to sell it into a market that has been depressed by the tune of \$30 a tonne. If that's an improvement for the Australian grower, I'll give up.

DR CRAIK: Yes, I think we were getting some of that before.

MR BROOKS (GC): Just because they won't give the flexibility.

MR BISITS (GC): Dr Craik, if I could just mention in support of the point about deposits being paid into an independent fund.

DR CRAIK: Yes.

MR BISITS (GC): That's mild compared to what AWB have proposed. In their further submission to your commission they have said that the bulk handling companies be deprived entirely of the running of the slot allocation system.

MR BROOKS (GC): And the prepayments.

MR BISITS (GC): Yes. Now, that suggests to me that they're really upset with the

bulk-handling companies, to go that far. But whether you go that far or our distance, something has to be done, there's a serious imbalance.

MS MacRAE: What about GrainCorp, do you have the same issues there?

MR BROOKS (GC): No, we had a very difficult negotiation with GrainCorp, but we now have a workable commercial agreement. Unfortunately, that wasn't resolved until after harvest and we have been prohibited from actually participating in the market to date. But we are now accumulating grain on the east coast to export, this month. It was only I think signed end of March, before we actually had it; we started in August.

MS MacRAE: That agreement lasts two years, doesn't it?

MR BROOKS (GC): Yes.

MS MacRAE: Do you feel confident that you have now sort of broken the back of that one and you'll get something that you regard as commercial next time around, or do you fear that you might be back to square one again - - -

MR BROOKS (GC): I fear I'll be back to square one, because I can assure you, as I have said in my submission, the only single reason that we were able to negotiate a realistic commercial agreement was because of the threat of registering a dispute with the ACCC, as per the WEMA access undertaking.

DR CRAIK: What about WEA, do you see them as a powerful force in monitoring activities, as the bulk handlers?

MR BROOKS (GC): I do. As I say, it is just an industry-tailored, sort of enforceable body. They have knowledge of the industry. They can be a go-to ombudsman, because they'll understand most of these disputes. It is a waste of time me filling out the paperwork to go through ACCC, as is proven, or the Trade Practices Act, because when a vessel turns up and it's not being loaded, for whatever reason, and the meter is running at \$100,000 a day I need to resolve the issue, and I have to pay that surcharge and I have to pay whatever they say I have to pay, and then I need to go to industry and say, "This was restrictive," or, "This was a disadvantage." In the case of when they're aware of it, they're across it, they can go in and price the pools; and I'm thinking that they're in place, and hopefully they will have some spare capacity to do other jobs, if they're not required, as seems almost unanimous, from what I've seen, regarding the permit applications.

DR CRAIK: The accreditation.

MR BROOKS (GC): Accreditation.

DR CRAIK: But if they don't have the accreditation issue and there's problems; one of the issues for accreditation for the bulk handlers is that they actually don't get accreditation right now unless they have an approved access undertaking, and those access undertakings are up for review again next year sometime. We have recommended that WEA go, but we have also recommended there needs to be some other kind of sanction, in the event that the bulk handlers don't abide by the access undertaking, if they don't have the threat of not being able to sell the wheat hanging over their head. I guess some of the feedback we have had is that we really do need to keep WEA, because they have quite a powerful sanction over the bulk handlers.

MR BROOKS (GC): I couldn't agree more. That's our view exactly, that we need to retain them.

DR CRAIK: Do you think we need to retain both ACCC involvement and WEA involvement indefinitely?

MR BROOKS (GC): Indefinitely is a long time.

DR CRAIK: Well, you know, the foreseeable future, I guess; without a date, I suppose.

MR BROOKS (GC): I think there is a definite need to involve both of those. Not that you could do away with ACCC. But I would see that there is a definite need to retain the supervisory sort of role of WEA - because of their threat to revoke licences in the event that the people aren't given access - at least until the market evolves to some maturity. There will be other ports built in Western Australia and there will be other ports built in South Australia, then it's not an issue of monopoly.

DR CRAIK: So do you think there will be other ports built?

MR BROOKS (GC): There will be the day the environment - you know, it appears that you can. But at the moment you can't, it just does not work. Despite the fact that WA claim to be a realistic co-op looking after the best interests of the grower, not that they have ever made any dividend payments - - -

DR CRAIK: I don't think they're allowed to, are they?

MR BROOKS (GC): There is no advantage, or no other farmer group - with regards to GrainCorp and Viterra, they are publicly listed companies, and CBH seems is hell-bent on being profit motivated for themselves, so I don't know why they deserve this monopoly protection.

MS MacRAE: Just in relation to that, in your point (a) under your 10 there, you

talk about the Bulk Handling Act in Western Australia, you've suggested that something that's in that Bulk Handling Act could usefully be replicated, I guess, under the Wheat Export Marketing Act. Why is that Western Australian act not more powerful in the Western Australian context?

MR BISITS (GC): That's a very good question. It has been ignored. It's a dead letter. People have forgotten about it. The act is 1967, but I think it has been there in earlier forms. The rights of access that it gives - it says something like, you know, anyone can go to a port and use it, something like that, so simple. You don't have to fill out forms, you don't have to enter into an agreement with CBH, you just go up there, and the provision under the act is for the fees to be fixed by the board of CBH from time to time. It's just so simple. Then you contrast that with the layer upon layer of agreements at CBH, which you can see from the access undertaking.

Access undertaking, port general services agreement, protocol, auction rules, and so on. People have been blinded by these documents, and they have forgotten about it. We haven't, and when we are exercising our rights about the demurrage and search costs, one thing that we have already reminded CBH of is that by denying us the ability to load they have denied us the right to load under that Western Australia act. So someone has been in breach of the act, and we'll pursue that. It shows that these are not new problems, and there are simple solutions to them.

DR CRAIK: Have you taken that up with CBH?

MR BISITS (GC): Yes, we have reminded them of it.

DR CRAIK: What has their reaction been?

MR BROOKS (GC): They didn't know about it.

MR BISITS (GC): Well, they were aware of it. I asked - they have been around for 80 or so years - you know, "What disputes have you had in relation to this provision?" The answer is, "None." So people forget about it. I suppose when you have a dominant party controlling the industry you work according to the rules of that dominant party.

DR CRAIK: So are you still negotiating port access protocols with the other two bulk handlers? You don't have to answer if you don't want to.

MR BROOKS (GC): Basically, yes. It's an ongoing negotiation. But we are signatories to the existing bulk-handling agreements, because we were forced to. They are not negotiable on any of the terms and conditions. They claim they are restricted to negotiating, because of their undertakings. I notice in all of their comments that they claim to have been involved in industry consultation, you know,

on development of auctions and Grain Express and these things, and I can tell you - I have been to both of those industry consultations - not one point was taken on board by CBH that would put them as recommendations by the industry. A bit difficult to negotiate on that basis. But they haven't.

DR CRAIK: Do you think, in principle, that an auction system is the best way to allocate space, particular when - - -

MR BROOKS (GC): It has merit.

DR CRAIK: - - - a lot of people want to export simultaneously?

MR BROOKS (GC): If there is a market that's going to pay a premium for it, by all means. I personally think that CBH have taken advantage of the situation where there is an increased demand for a finite resource. I think they have leveraged great benefit from it, with full prepayment of all services, full forfeiture of all fees and zero flexibility, which they have never had before. I really don't think that, as is evidenced from the market distortion in these prices, both in the sales to Indonesia and the cost to the pool - just so you know, one further cost distortion that you need to know, in Western Australia, like all states, the trade buy grain from growers on a track basis, which is basically delivered port, less the rail rate. So it's delivered port, then we pay the bulk-handling company an additional fee to fob, which is put it on the boat.

In the case of Western Australia, that fee is, let's say, \$25, in round numbers, for the purpose of the exercise. The difference between the track price and the fob price is down to \$5 or \$10, meaning that the fob price is what the world market price is but because everybody has slots booked and needs to buy grain track from a grower so that can fill that fob slot he's having to pay about \$15 to \$20 more than what it is reflective of, and there's no point in buying it fob because you're only using someone else's shipping slot, and there is no flexibility on these shipping slots, so everybody is about utilising the shipping slots for which they have booked and prepaid. That's where cash prices for grain over there are going to be artificially higher because of the demand to own it, track; but all of the pool grain is going to be sold into lower price markets and have high costs.

Just on the auction system again, doctor, the advantage for the auction system that I say CBH leveraged to their advantage was the fact that it better suits pools and operators of pools, because a pool, by the mere nature of it, is a volume of grain that's put together and sold over a period of time, they deliberately stagger the sales to average the prices over the period of the year. These guys can pre-book maybe a ship a month, or a ship a week, or whatever it is spread out over, and make those sales accordingly, and any of those wavered costs again are not to their exposure, they're to a grower's account.

In the case of the private trade, we pay cash to a grower for a price today so it can ship tomorrow, and pre-booking those slots is difficult because you don't actually know what you've bought or what sales you'll make. What you sold to a Japanese flour miller last year in January is irrelevant to what happens in January this year; quality and prices vary around the world. All of the claims that CBH made in defence of their Grain Express management, I would like to go through with you at some stage, whether it's here or - - -

DR CRAIK: It might be at Canberra.

MR BROOKS (GC): Okay.

DR CRAIK: Yes. Because I think we're running short of time.

MS MacRAE: Yes. I just had one question. I just wanted to be absolutely clear. You haven't taken any grain direct to port in Western Australia?

MR BROOKS (GC): No.

MS MacRAE: No. Okay. Is that partly because the access to the port, the fees there, are too high? So even if you could get round the supply chain, the access to port fees are such that if you wanted to go direct to port there's a fee there that would be prohibitive?

MR BROOKS (GC): If I could buy the grain in a private storage or on farm storage in Western Australia, I am very confident I could shift it to port at a better rate than what CBH presently charge me to move it. But the problem is I can't access that volume of grain to load 50,000-tonne vessels. If I buy grain into the CBH system, for me, I can't access it up country to move it at my cheaper rate, because they will charge me the \$8.50 outturn fee to move it, and save \$2.

DR CRAIK: I see, so it's - - -

MR BROOKS (GC): If I want to access the domestic market - like, if I could access the grain ex-country like I used to be able to do, and I do in every other state, if it's a \$20 freight-away from Perth, if I can access the grain at that upcountry site and take it for \$20 - or \$18, as I would claim, direct to a domestic market, then I could see it competitively into the Perth market. But under Grain Express, I can't access it upcountry but they will cart it for their port price and then they will outturn it there for me for an \$8 fee, and then I've got to pay road freight from their site to the domestic market of, let's say, another \$8, so I'm \$16 disadvantaged when I turn up at the domestic market. So we have no access to the domestic market, it's not economically feasible; and we cannot pack grain in our private container facilities,

which we have in Western Australia, for the same reason, economically - - -

DR CRAIK: If you could access the grain and you could get it to the port, could you make a profit?

MR BROOKS (GC): Yes.

DR CRAIK: Would you be able to load it in WA?

MR BROOKS (GC): Yes.

DR CRAIK: With the current arrangements in relation to the access undertaking for the port?

MR BROOKS (GC): I can't under the current arrangements access it upcountry.

DR CRAIK: Okay, yes, but if you could access it upcountry and you could - - -

MR BROOKS (GC): I could take it either to my own container terminal to load it, more competitively than CBH, or I could take it to, like, Western Millings, or other domestic users, competitively. But under the Grain Express system, I'm at least \$16 out.

DR CRAIK: Yes.

MR BROOKS (GC): That's what I'm saying, if there was no Grain Express then we would, as would all other private traders, be in a position to build your own bulk port loading facility, because you could access your own grain and take it to your port. But at the moment the environment is not there to allow you to do that.

MS MacRAE: Just again, so I can be clear, you've made the formal - I don't know if you call it a complaint, but whatever, to Grain Express.

MR BROOKS (GC): Yes.

MS MacRAE: Have you contemplated or have you looked at the arbitration process under the ACCC access undertaking itself, in relation to charges or other things to do with the access undertaking itself?

MR BROOKS: We thought we would go through that process, because we have had many a conversation with the ACCC about our concerns, we have registered our concerns, and that process was not available to us until we had actually lodged an objection to them giving them notification, we requested that they revoke the notification, then we can go through and we have to prove that there was no

community benefit. We showed them the freight rates went up, we showed them we were disadvantaged, we showed them we were still paying demurrage, these types of things. The next step I think we could take that action, but we haven't had the response.

DR CRAIK: Okay. Adam?

MR BISITS (GC): Yes, I think that's right. Given that there's the direct Trade Practices Act procedure for revoking the notification, we want to try that out. I should mention that invoking the dispute procedure of an access undertaking, which we did with GrainCorp, was a very difficult and unpleasant procedure to have to go through, because it occupied the whole of Christmas and January and - - -

DR CRAIK: So was this interacting with the ACCC or with GrainCorp?

MR BISITS (GC): Interacting with GrainCorp. These are people you have to deal with - - -

DR CRAIK: On a day-to-day basis.

MR BISITS (GC): - - - sort of on a day-to-day basis, then you have to invoke - so it's something you do reluctantly. But it may have to be done.

MS MacRAE: Just to be clear then with what happened with GrainCorp, you did the negotiate, that didn't work. Did you then threaten that you would go to arbitration - - -

MR BROOKS (GC): We did.

MS MacRAE: - - - or did you actually go that - - -

MR BROOKS (GC): We did lodge.

MR BISITS (GC): We prepared the dispute notice.

MR BROOKS (GC): And lodged it.

MR BISITS (GC): It worked magic.

DR CRAIK: So you didn't actually have to get to the point of actually lodging it - - -

MR BROOKS (CG): We had to remove it. It must have been lodged, because we had to - - -

MR BISITS (GC): Well, we gave the dispute notice under the relevant provision of their access undertaking, which is about clause 7. The next step would have been that they, GrainCorp then had to advise the ACCC that this dispute has been triggered. But that never happened, because it sorted itself out.

DR CRAIK: So that was quite powerful.

MR BISITS (GC): Yes.

MS MacRAE: But it did take you a couple of months of preparation to get that together to - - -

MR BISITS (GC): Six.

MS MacRAE: Six months?

MR BISITS (GC): Yes.

DR CRAIK: Six?

MR BROOKS (GC): Six months of negotiations. 30 September I think the ACCC gave them approval for the interim agreements, and we negotiated till the end of March - in which case, we missed harvest of course, but we are satisfied it is commercially viable.

DR CRAIK: Okay.

MR BROOKS (GC): It's just a reasonable agreement. It's set charges, we know what our responsibility is, and are looking forward to doing some business.

MS MacRAE: On page 6 of your submission you talk about pursuing a claim against CBH for the losses in relation to Grain Express; that's the Grain Express notification?

MR BROOKS (GC): Yes.

MS MacRAE: Yes, okay. I just wanted to be sure about which processes - - -

MR BROOKS (GC): Yes, no, we incurred substantial expenses there, millions of dollars worth demurrage, which is basically just the cost for ships sitting around that they didn't load in time, as nominated in time, but had arrived on time, and we'd booked the slots.

DR CRAIK: So you're pursuing that direct with CBH, but you've also got something into the ACCC about the whole Grain Express - - -

MR BISITS (GC): About Grain Express, yes.

DR CRAIK: Yes, so you've got both those avenues going.

MR BISITS (GC): That's right, yes.

DR CRAIK: Okay. How is the claim against CBH going?

MR BROOKS (GC): Well, it's not. We have made a claim and they have just (indistinct)

MS MacRAE: Then, very finally, because we have only got two minutes - and I appreciate that you've given us all your time this afternoon. It is really useful to have some of these things in writing, because we hear all these rumblings, but it's hard for us to use things if we haven't got something in writing. So we appreciate that.

MR BISITS (GC): We have got a bit more for you in writing too.

MS MacRAE: Just in relation to the ABB issues around the shipping slots, is that the sort of thing that you might also pursue under an arbitration with the ACCC? Is that something that you could possibly go to them over or is that not - - -

MR BROOKS (GC): It's very difficult to sort of litigate that claim, because they can say with the best intentions that they booked that slot, they lost market share or they lost sales or the quality wasn't up to spec. A very clear picture was what we wanted to show you, that they booked all this tonnage and they never used it, and they never cancelled it until days before. I mean, you know damn well whether there's a contract signed, whether there's a letter of credit opened, whether there's a ship booked; I mean, nothing happens inside 30 days.

DR CRAIK: Is it possible under the access undertaking to go to the ACCC about that sort of thing or is it - - -

MR BROOKS (GC): An example of naughtiness.

MR BISITS (GC): Look, it is.

MR BROOKS (GC): We have a lot more compelling arguments about examples of naughtiness, we think, Wendy.

MR BISITS (GC): Yes, under the ABB - sorry, it's the Ausbulk access

undertaking, the Viterra Group one. Yes, it is possible to notify a dispute, and it's similar to the GrainCorp procedure. ACCC then have the option of being the arbitrator themselves or asking somebody else to be the arbitrator.

MS MacRAE: Is that something you could potentially take to the WEA under the WEMA act, and say, "If these guys don't act according to their access undertaking, you've got the right to take away their" - so appeal to the WEA rather than the ACCC?

MR BROOKS (GC): Adam pointed out there that it says in Ausbulk's own undertakings that they have the right to reject an application that they consider excessive. As a subsidiary to the ABB, I don't know what authority or what power - or how well that would be received by Viterra in Canada if one of their subsidiaries told them that they couldn't accept their 2 million tonne booking. I don't think it would be a problem for them to reject a Glencore 200,000-tonne booking. But it is a perfect example of what we need to take to the Wheat Export Authority on the eve of harvest, when this is what happened. They announced that this was the system, here is the stem; day one, bang, it was booked and we all went, okay.

MR BISITS (GC): Just pursuing the point, commissioner, to which I think you were alluding. When the dispute was notified to GrainCorp and the particulars of the dispute were given, one thing alluded to - or, actually, expressly mentioned I think, was that this dispute is jeopardising the accreditation of GrainCorp, because GrainCorp has to be continually meeting the access test.

MS MacRAE: Yes.

DR CRAIK: That's right.

MR BISITS (GC): We gave some particulars of why we thought they weren't doing that. I think WEA takes the position that if you don't meet the access test continually then you can't export, you don't have the right to export.

MS MacRAE: Yes.

DR CRAIK: Under their act they have a requirement to - - -

MR BISITS (GC): So that's a powerful ground of dispute to raise.

MS MacRAE: Yes. Thank you.

DR CRAIK: We will have to call a halt there I think, because we're running out of time. Thank you very much - - -

MR BISITS (GC): If I could just hand this up. We have read carefully the submissions of CBH and Viterra and AWB to your draft report, because they touch on points that we ourselves have made. We wrote our submission independently of those. We found that AWB generally supports many of the positions we take, which is significant, because they are the dominant - or, a significant exporter. Where CBH have tried to explain Grain Express, you will see, from what we have written, we don't think they have got very far. If I could just mention one thing. They never describe Grain Express, they just treat it as a model, whereas actually it's a requirement to use them only. Likewise, Viterra say that the access undertaking deters them from making investments. But there's gross overcapacity - well, there's ample overcapacity in South Australia, nobody is talking about investment. So we have summarised that.

MS MacRAE: That's very helpful.

DR CRAIK: Thank you. Can we treat that as a submission?

MR BISITS (GC): I think so, yes.

DR CRAIK: Can we put it on our web site as an attachment to your current submission?

MR BISITS (GC): Yes. We'll email it to you.

MS MacRAE: That would be great.

DR CRAIK: That would be really helpful.

MR BISITS (GC): I'll hand it up now.

MS MacRAE: Yes. That's great.

DR CRAIK: Yes. Thank you very much.

MR BISITS (GC): Thank you.

DR CRAIK: Before we go, ladies and gentlemen, that concludes today's scheduled proceedings. For the record, is there anyone else who wants to appear today before the commission?

MR MUNRO: Are you going to allow any comments? You did say earlier that you - - -

DR CRAIK: Well, that's what I am just doing now. If you have got a very brief

comment, because we do have to go and you have spoken today.

MR MUNRO: Okay. Thank you. It's interesting listening to Glencore. I just reiterate what John Ridley said: why would people that own ports and handling facilities have to share them. I mean, isn't it the business of those companies to do whatever they like with their assets. I heard Mr Brooks talk about (indistinct) which is what I told you when I was talking about relationships and national pool (indistinct) with the rest of the world. Now we have this trading environment where there's no obligation, no need for service, just do the trade and get out of here.

The other point I wanted to make is I can see as the industry shrinks there's going to be an issue with the grains research levy and that's going to come under stress. Single Vision that you mentioned before, that was always a fanciful idea, it was never put to growers as an option. I know through New South Wales farmers, there is an issue there with (indistinct) the grass roots. I think Single Vision was just used to deregulate the industry to weaken the farmer's voice. That's basically all I wanted to say.

DR CRAIK: Okay. Thanks very much, Jock. Now I adjourn these proceedings. The commission will resume in Adelaide on Monday, 17 May. So thanks for your appearance. Thanks for your submissions. We see you next week, on Tuesday.

AT 3.04 PM THE INQUIRY WAS ADJOURNED UNTIL
TUESDAY, 17 MAY 2010