Submission to:

Wheat Port Code Review Taskforce

Review of the Competition and Consumer (Industry Code – Port Terminal Access (Bulk Wheat)) Regulation 2014

Prepared by: Maddison McNeil
Organisation: Western Australian Farmers Federation
President: Duncan Young
Postal Address: PO Box 556
Belmont WA 6984
Phone: (08) 9486 2100
Contact name: Maddison McNeil
Title: Executive Officer
Email: maddisonmcneil@wafarmers.org.au
Introduction
In conjunction with the contribution made during the teleconference, WAFarmers offers the following comments.

The introduction of the Port Code came following significant deregulation of the Australian grains industry. The Code has been in operation for three years, with two ACCC reports on the port operations completed to date. WAFarmers would like to note that the timing of the reporting directly conflicts with significant port operations, with the majority of the grain being exported between November and May. The ACCC report, once published in December, is utilising shipping information from 1 year previously. The 2017/18 season grain was sown in April 2017, harvested by December 2017, and majority of the grain will be shipped by May 2018, however the report outlining the performance of the ports will not be published until December 2018. The timing does not allow for effective regulation, as any issues found by the report cannot be adequately addressed at the time of the report. More effective reporting would be if the review occurred following the end of the main shipping season. WAFarmers would suggest that the report should be timed to include shipping information from the previous season, with enough time to affect change in the port system.

Is the Wheat Port Code still necessary?
Due to the short period of time that the Code has been in use; there has not been an adequate amount of time for the market to mature. Self-regulation of the market would be inappropriate given the relatively short period of time that the Code has been operational. Premature changes to the regulation of bulk export ports in Australia could pose issues with competition. The regulations should not be removed at this time. The Port Code must remain until the next review, allowing for a number of the challenges outlined in the ACCC Bulk Wheat Ports Monitoring report to be considered over a number of seasons and years, before the effectiveness of the Code can be adequately assessed.

What effect has the Wheat Port Code had?
The Code provides industry structure, as well as an enforceable Code with clear compliance and reporting obligations. The presence of the Code prevents the requirement to prove anti-competitive behaviour, by creating a legislative environment that prevents anti-competitive behaviour.

The ACCC requires proof that anti-competitive behaviour is occurring before it can intervene in the market. An option would be for infrastructure owners to prove that business decisions that may impact how the infrastructure is used in the market are not anti-competitive.

WAFarmers urges that consideration must be given to the differences between how cooperatives act within a market compared to corporate businesses. When a cooperative improves efficiency and reduces costs, those savings will directly benefit growers through the ownership structures. When a corporate entity makes efficiency gains, it doesn’t always translate to grower savings.

Could the Wheat Port Code be improved?
WAFarmers maintains our support for the exemption of cooperatives, and other port owners in Western Australia. The consistency of all bulk export ports in WA to remain exempt is important to maintain a competitive export market in WA.
The maintenance of the Code as it currently operates is the preferred option. Improvement in transparency and consistency in reporting obligations would be welcomed, to allow for effective comparison of how the Ports operate throughout Australia.

The Code would be improved by increasing industry awareness of the importance of the Code, and the level of transparency it provides. There are several reporting requirements that aren’t thoroughly understood by the majority of the supply chain, specifically the shipping stem information, and the potential value it can provide to industry.

The reporting requirements of the Code should provide transparency to industry, and should be strengthened if it does not currently meet those requirements.

**Supply chain for grain in WA**

The supply chain in WA agriculture is unique, as it is owned by a grower cooperative, and is the largest vertically integrated supply chain in Australia. CBH is the largest cooperatives in Western Australia. Growers in WA generally support the CBH supply chain, with approximately 90% of grain produced going through their network for export to international market.

The up country storage arrangements, trains used, and the port facilities used in Western Australia are owned by growers through CBH Group. This puts growers in a unique position, as they own, pay for the use of, and maintain their own network for meeting the export market requirements. This includes grower money being invested into the infrastructure. Currently the major competitor to the CBH up country storage network is the increase in on-farm storage, use of containers, and the development of Bunge’s own network from their storage facilities to port infrastructure.

The supply chain inefficiencies and bottlenecks in WA are not a result of capacity issues at port. The issues are usually with getting the grain from the up country sites through the network to port. The WA rail network is not efficient when compared to the port infrastructure, and would require significant investment in the infrastructure to cause issues with port capacity and efficiency.

The introduction and uptake of the long term agreements (LTA’s) with port capacity allocation have significantly improved how users of the port are provided and allowed access, especially when compared to the previous auction system. The LTA’s give port users reduced risks and uncertainty about getting port access when required, as well as more certainty about the price for access to the port. This gives greater certainty for the grain marketer to allow them to accumulate grain.

**Organisational Background**

The Western Australian Farmers Federation (Inc.) (WAFarmers) is the state’s largest and most influential rural advocacy and service organisation. WAFarmers boasts a membership of over 3,500 primary production businesses and individual farmers including grain growers, meat and wool producers, horticulturalists, dairy farmers, commercial egg producers and beekeepers. Collectively our members are major contributors to the $7.5 billion gross value of production that agriculture in its various forms contributes annually to Western Australia’s economy.