



Grain Producers SA



Submission re Draft Report - September 2014. Competition Policy Review

Dear Sir/Madam,

In principle we support the recommendations in the Draft Report and wish only to make several observations, challenge recommendation 10 and strongly support three of the 52 recommendations.

Background;

Grain Producers SA (GPSA) is a not-for-profit organisation which represents South Australia's 3000 grain growers. GPSA develops and implements policies that promote the economic and environmental sustainability of the grains industry to benefit producers.

South Australia's grain production for 2012/13 season was 8.612 million tonnes, (with a farm gate value of over \$2.1 billion & export value of \$2.8 billion)¹, being predominantly wheat (5.006 million tonnes) and barley (2.126 million tonnes). Most of this grain is exported in bulk, with the domestic market for grain accounting for approximately 500,000 tonnes. South Australian farmers have invested over \$40billion in farm capital and farming contributes to the employment of 33,000 people directly and an additional 146,000 are employed in the food sector.

Observations;

The Panel's view

Most price and supply restrictions in agricultural marketing have been removed.²

We concur this is the case however we also note that many of the supply and output sectors of the market place surrounding agriculture and in particular grain production are still protected, three examples from the draft report are;

Road Transport;

The Panel's view

Reform of road pricing and provision should be a priority. Road reform is the least advanced of all transport modes and holds the greatest prospect for efficiency improvements, which are important for Australian productivity and amenity.³

¹ Minister Gago 29th January 2014

² 8.11 Competition Policy Review, Draft Report September 2014

³ 9.2 Competition Policy Review, Draft Report September 2014

Regulatory restrictions;

Regulatory restrictions on competition

*Genetically modified crops cannot be grown in South Australia and Tasmania (but can be grown in all the other mainland States).*⁴

Ports;

The Panel's view

Significant reform of ports has been achieved, which has benefited users. Nonetheless, various participants in many of the port services chains have significant market power. Regulators and regulatory frameworks need to recognise this, including through the application of pricing oversight and, if necessary, price regulation.

*Leasing costs at ports subject to price regulation should aim to reflect the opportunity cost of the land and not the ability to extract monopoly rents. The latter represents an inefficient tax on consumers and business.*⁵

As these above examples indicate Agriculture is not yet operating on a level playing field and it is imperative that the competitive landscape for grain production is levelled as soon as possible. An example of monopoly prices being extracted from the South Australian grain farmer is the “export select” rates for transport from up country silos to port. In all areas of South Australia there is only one provider leaving no room for competitive pricing.

Challenge;

Draft Recommendation 10 — Planning and zoning

All governments should include competition principles in the objectives of planning and zoning legislation so that they are given due weight in decision-making.

The principles should include:

- *a focus on the long-term interests of consumers generally (beyond purely local concerns);*
- *ensuring arrangements do not explicitly or implicitly favour incumbent operators;*
- *internal review processes that can be triggered by new entrants to a local market; and*

reducing the cost, complexity and time taken to challenge existing regulations.

In the case of farm land we believe the second bullet point of the above recommendation should be the exact opposite. Farming is a perpetual production industry and land is immovable. Policy needs to implicitly favour the incumbent operator (farmer) to ensure food and fibre production can continue to be competitive.

Strong support;

We particularly support the following three draft recommendations of your report.

Draft Recommendation 46 — Access and pricing regulator functions

The following regulatory functions should be transferred from the ACCC and the NCC and be undertaken within a single national access and pricing regulator:

- *the powers given to the NCC and the ACCC under the National Access Regime;*
- *the powers given to the NCC under the National Gas Law;*

⁴ Box 8.2 Competition Policy Review, Draft Report September 2014

⁵ 9.2 Competition Policy Review, Draft Report September 2014

- *the functions undertaken by the Australian Energy Regulator under the National Electricity Law and the National Gas Law;*
- *the telecommunications access and pricing functions of the ACCC;*
- *price regulation and related advisory roles under the Water Act 2007 (Cth).*

Consumer protection and competition functions should remain with the ACCC.

The access and pricing regulator should be established with a view to it gaining further functions as other sectors are transferred to national regimes.

This change would strengthen third party access to port and bulk grain loading critical infrastructure. A solid example of how access & pricing regulation benefits farmers is the “Auction” system now used in South Australia by Viterra. This change from “first in first served” to the “auctioning of shipping slots” at ACCC direction has increased returns to farmers by approximately \$20 per tonne or \$120 million back to the farming community this season.

Draft Recommendation 49 — Small business access to remedies

The ACCC should take a more active approach in connecting small business to alternative dispute resolution schemes where it considers complaints have merit but are not a priority for public enforcement.

Resourcing of the ACCC should allow it to test the law on a regular basis to ensure that the law is acting as a deterrent to unlawful behaviour.

This change would support our 3000 members who as SME’s are often unable or unwilling to challenge the much larger suppliers they have no alternative but to trade with.

Draft Recommendation 50 — Collective bargaining

The CCA should be amended to introduce greater flexibility into the notification process for collective bargaining by small business. One change would be to enable the group of businesses covered by a notification to be altered without the need for a fresh notification to be filed (although there ought to be a process by which the businesses covered by the notification from time to time are recorded on the ACCC’s notification register).

The ACCC should take actions to enhance awareness of the exemption process for collective bargaining and how it might be used to improve the bargaining position of small businesses in dealings with large businesses.

This is an opportunity that our members who are SME’s need to be aware of as most deal predominantly with large businesses.

A further area of concern for our members is the possibility of an unfair advantage to large non Australian corporation farmers operating in competition to local famers. This may be in the case of State Owned Enterprises or simply large well-funded organisations that can operate at a loss in a farming enterprise being supported by overseas interests likely not paying Australian tax yet allowing competitive farming operations to operate at below cost locally.

We thank you for the opportunity to submit and would welcome any questions or comments.

Yours sincerely,



Darren Arney
Chief Executive Officer