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2 July 2007

Dr Patrick Walsh
Chairman
Essential Services Commission of South Australia
GPO Box 2605
Adelaide SA 5001

Attention: Mr Nathan Petrus

Dear Sir,

2007 Ports Pricing and Access Review: Draft Report

Thank you for the opportunity to provide comment on the 2007 Ports Pricing and Access Review Draft Report.

Introduction

It is pleasing to note that among the Conclusions made in ESCOSA's Draft Report there are the following –

'There is no evidence to suggest that port operators are earning excessive profits.'

'There is no evidence to suggest that prices charged by Flinders Ports and ABB Grain indicate market power being exercised.'

'There is no evidence to suggest that port operators are misusing market power in the provision of Regulated Services'

It is also pleasing to note the Commission' Draft Report Conclusion to continue the current light-handed price monitoring form of price regulation. This is consistent with the submissions made to ESCOSA, including ABB Grain's submission.

ABB Grain Ltd ABN 59 084 962 130
124-130 South Terrace Adelaide 5000 South Australia
GPO Box 1169 Adelaide 5001 South Australia
Telephone 08 8211 7199 (Facsimile 08 8231 1249 (Email abb@abb.com.au

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ABB Grain does however have some concerns with the following Draft Report Conclusion

'The Commission recommends that the Government address the above inconsistencies in the coverage of the access regime by:

- **Removing coverage at the port of Ardrossan; and**
- **Extending coverage to the bulk loader being constructed at Outer Harbor**

The Commission also requests comment on whether or not access regulation should apply to at-port storage and bulk handling facilities'

ABB Grain will comment on each part of the above recommendation separately.

Ardrossan

As is pointed out in the ESCOSA Draft Report there is only one main user at Ardrossan with established long term arrangements in place and the Bulk Loading Plant at Ardrossan is excluded under the Act hence there appears to be little if any benefit gained from regulation. ABB Grain believes that the cost of compliance exceeds the benefit and hence support ESCOSA's draft conclusion to remove the Port of Ardrossan from coverage.

Outer Harbor

In respect to extending the coverage to the bulk loader being constructed at Outer Harbor, while ABB Grain believes this is unnecessary we can appreciate the Commission's desire for consistency and would be prepared to cooperate with the extension to Outer Harbor if the Government chose to adopt the Commission's recommendation. It is, however, difficult to see how there will be any net benefit gained by including the Outer Harbor bulk loader under the MSA Act.

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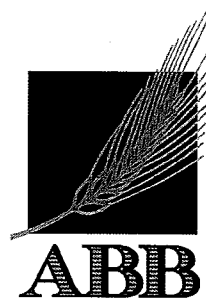
Grain Supply Chain

In the Draft Report, ESCOSA seeks comment from stakeholders on whether or not access regulation should apply to at-port grain storage and bulk handling facilities. ESCOSA also comments that this issue should be considered as part of a broader review of regulation across the entire grain supply chain.

ABB Grain provides an integrated supply chain solution for the grain industry. Value to the grain industry and ABB Grain comes from this integrated system. The returns made on the ABB Grain storage and handling business are moderate, particularly when taking into account the high capital investment and the uncertainty of revenue due to seasonal factors. Regulating the entire grain supply chain or the at-port storage and handling in isolation will potentially undermine the value delivered by the integrated supply chain solution provided by ABB Grain.

Although the potential for other ports or grain terminals to be developed is largely discounted in the Draft Report, there have been proposals to develop grain ports at Myponie Point on Yorke Peninsula and at Pt Stanvac in recent years. In addition potential sites for the development of grain ports have been identified on Eyre Peninsula. With deregulation of the grain export market, major multinational traders will become increasingly active in SA and Australia. Experience overseas has shown that these large companies are prepared to build their own ports and grain terminals. In addition the expansion of the mining industry will provide the opportunity to develop new grain terminals at ports developed for the mining boom. ABB Grain already competes with Graincorp at the port of Portland with grain from the south east of SA exported through Portland. ABB Grain therefore argues that there is competition and the real threat of more competition at the ports.

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The entire grain supply chain includes a range of export and domestic pathways, a range of storage alternatives and a range of road, rail and shipping transport providers. Within the land based grain supply chain, there are a broad range of alternatives for grain growers, grain buyers and grain traders. Options include -

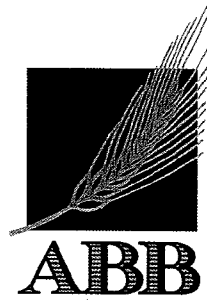
- Grain can be held in on-farm storage and subsequently sold into domestic or export market,
- Grain can be sold at harvest direct to domestic end-users and stored by them on-site
- Grain can be delivered to ABB Grain, Graincorp, Grainflow or private storage for subsequent sale into export or domestic markets
- Grain can be exported through a range of ports including Portland
- Growers can warehouse grain in various storage facilities to subsequently take out for personal use or sold
- Growers can deliver to a range of road based sites or rail-based sites or direct to a number of ports.

ABB Grain strongly opposes the idea of regulating the entire grain supply chain given the options available grain growers and traders, the current regulation of key port infrastructure, the lack of any history of abuse of market power and the potential to undermine the value of the existing integrated supply chain solution.

At-port Storage and Handling

In respect to the at-port grain storage and bulk handling facilities, ESCOSA already regulates the access and pricing on the Bulk Loading Plant (ie the ship-loader and the conveyor system feeding the ship-loader). As is pointed out in the Draft Report (P40), the definition of Regulated Services already covers the land needed to give practical effect to the rights to access other Regulated Services (and access to a bulk loading facility is provided as the example). Hence the Regulated Services already include the ship-loader, the conveyor feeding the ship-loader and land required to access the ship-loader. This is the key infrastructure at the port. It would be possible at a number of ports to acquire/lease land to build grain storage and handling facilities. There are therefore feasible alternatives that could be utilised. If ABB Grain were making high returns at the port there is no doubt there would be other parties seeking to develop at-port storage and handling facilities and accessing the ship-loaders.

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In respect to potential use of market power over at-port storage and handling facilities, ABB Grain points out the following

- ESCOSA already regulate the key infrastructure at the port
- There is no evidence to suggest that ABB is misusing market power in the provision of port terminal services
- It is feasible for other parties to develop alternative storage and handling facilities at a number of the ports and then to access the Regulated Services

The call for regulation of grain terminals appears to come from one submission only, based on recommendations made by the SAFF Barley Working Group. The SA Barley Working Group was concerned that, with the abolition of the single desk for barley, there was the potential for ABB to use its ownership of the grain terminals to frustrate or deter competition. It is noted that the concerns of the SA Barley Working Group are merely theoretical, and that there have been no examples forthcoming of ABB abusing its position as port terminal owner. This matter was considered by the ACCC at the time of the merger of ABB and AusBulk in 2004. The ACCC expected that the barley market would be deregulated in South Australia within the medium term and accordingly obtained an undertaking from ABB that it would not discriminate between traders as to the terms and conditions of access to the SA port terminals. However the ACCC fixed the time of the undertaking to expire in 2009, recognising that special protection was unnecessary once the fledgling market for the accumulation of barley was established. If traders had concerns beyond 2009 about ABB's abuse of its market power in storage and handling, they would have recourse under s46 of the Trade Practices Act.

Commercial Implications

Any action to further regulate ABB Grain's operations in SA would have very serious adverse impacts on ABB Grain's share price and its ability to attract future capital for growth and development. For example, ABB Grain will have invested over \$120 million in the construction of the Outer Harbor Grain Terminal by 2008, representing a quarter of the current value of ABB Grain's entire storage & handling system in SA. This investment was made on the basis that Outer

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Harbor will be an important part of ABB's unregulated businesses. A decision in the future by government to regulate the port terminals would be very much at odds with investor expectations and ABB's commercial charter.

Thank you for the opportunity to comment on these issues. If you require further information please contact Rob Taverner (rob.taverner@abb.com.au).

Yours sincerely,


Michael Iwaniw

Managing Director