

Submission by Shipping Australia Limited to the
Australian Competition & Consumer Commission

**ABB Grain Ltd, Co-operative Bulk Handling
Limited & GrainCorp Operations Limited**

August 2009



Shipping Australia is a peak shipowner body representing the interests of many Australian and foreign shipping companies and shipping agents in the provision of shipping services to and from Australia, and in some limited cases the carriage of domestic cargo under licence but more commonly under single and continuous voyage permits. The Members listed in the attachment carry, or are directly involved in the carriage of, over 80 per cent of Australia's container, car trade and cruising industry, as well as over 50 per cent of our break-bulk and bulk trade. The primary focus of Shipping Australia is to provide shipping services that directly lead to the facilitation of Australia's international and domestic trade.

SAL makes no comment in relation to the access undertakings made by ABB Grain, nor the Draft ruling made by the ACCC. Nonetheless, we do take this opportunity to highlight some associated factors which could complicate access arrangements.

We make our submission under Part IIIA of the *Trade Practices Act 1974 (Cth)* (the Act) – being a provider of a service in the overall logistics chain, in connection with the provision of access to that service.

With reference to the subject submission, Shipping Australia Limited (SAL) is concerned with future operations at Berth 8 Outer Harbor, Port Adelaide, due to its limited storage capacity and also the lifting capacity of ships loading there.

Ideally, a chartered grain vessel will arrive at the Pilot Boarding Ground, the ship's Master will declare that their vessel is "**ready in all respects**", a Pilot will board, the vessel will then berth, be surveyed, load and finally leave Berth 8. However, in recent years there has been an increasing number of Panamax vessels arriving at a loading berth only to fail survey, and recently some vessels only five years old and under have failed.

SAL Members are concerned that if a vessel fails survey how will the cargo accumulated for that vessel be handled, as in some cases it can take more than a day for the vessel to be cleaned and made ready to load. A recent case involved a vessel taking twelve (12) days to clean, at an estimated cost of \$500,000.00.

If the accumulated cargo does not belong to ABB, would this mean that the cargo for a particular trader would have to be returned to upcountry storage and another load received into the silo, with the next vessel in line being called in? Given the just in time nature of the Outer Harbor Grain Terminal this situation may result in extensive delays and costs – both in accumulating appropriate cargoes to load the next vessel, and/or in arranging for the original vessel (which failed survey) to return to the terminal to load. Therefore, the potential for delays to the loading of third parties' grain cargoes through the facility, due to numerous reasons, is very real, and will only be determined by ABB Grain's management of the storage and sequence of loading of vessels. These matters will be further complicated when accumulated cargoes and vessels on charter and queued awaiting berth access, belong to different parties.

Since the *Wheat Export Marketing Act 2008 (Cth)* (the WEM Act) came into effect on 1st July 2008, there are now some twenty plus Wheat Traders (Including ABB) who could request access to load through ABB's Outer Harbor Grain Terminal. In turn, these traders will also charter their own vessel to convey their product to another destination.

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The majority of SA grain is now exported in Panamax vessels and this trend continues to rise. The development of the deep water Berth 8 at Outer Harbor has been driven by the SA Grains Industry, with support from SAFF and marketers through the DSPIC process. Flinders Ports SA (FPSA) have completed the berth and dredging the channel to allow Panamax vessels to be loaded and sail without waiting for tide.

In summary, the facility at Berth 8 Outer Harbor is designed to operate twenty-four (24) hours a day, seven (7) days a week, to receive, store and load a single shipment of up to 65,000 tonnes into a Panamax vessel for a trader. The cycle will take approximately one (1) week, i.e., two (2) days to receive and two (2) days to load and then start receiving for the next vessel/trader. It must be noted there is **no spare storage capacity**.

To date no vessel has used the berth to load grain and we understand that ABB's Outer Harbor Grain Terminal is due for commissioning in November / December 2009

Here it is important to note that currently:

1. Once advised of the fixture, the ship's agent, amongst other things, forwards a message to the Master requesting the last four (4) ports of call and cargo carried, also advising that the Australian Quarantine Inspection Service (AQIS) are very strict in their grain inspection requirements and the measures that need to be taken in order to pass all necessary surveys. These include, all holds have to be clean and dry (no past cargo residues, rust or scale) with bilges open and dry for inspection prior loading.
2. All Masters arrive at the declared port of loading covered under the grain Charter Party (CP) and tender notice advising their vessel is ***“ready in all respects to receive charterer's cargo”***. This secures the vessel's position in the load line-up and positioning onto the grain berth. It also allows the silos to position and sequence the cargo and the loading. Note: - Prior to the survey, a vessel has the right to berth at a loading berth, as every vessel is deemed to be “ready to load” until proven otherwise. However, a vessel must pass inspection by both AQIS and a Marine Surveyor before being issued a “Permit to Load”. They can pass each survey separately but both must be passed in order that loading may commence.
3. The problems of a vessel failing survey have been a matter of concern, with recommendations to have grain vessels surveyed at anchor.
4. As a consequence of vessels failing survey and other difficulties being experienced along grain supply chains, a small Steering Group consisting of Members of SAL and SAFC volunteered their time without financial assistance to host a ***“Grain Industry Awareness Forum”*** in November 2008. Papers and Minutes can be accessed through the SAFC Website at: <http://www.safreightcouncil.com.au/ba.asp>

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This was followed by another Forum hosted on 29th May 2009 where a document was prepared entitled “*Plough to Port*” to:

- ensure Australia maintains the integrity of the grain industry and achieves “World Accreditation Best Practice for Loading Grain in Australian Ports”
- map the grain supply chain (product and document flow)
- identify weakest links in the logistics supply chain and offer solutions – including an international standard of cleanliness for vessels carrying grain
- allow input from the industry to improve the document, through hyperlinks and websites
- be a “living document” for continuous future reference, and ultimately be accepted nationally as the Grain Industry’s only reference book
- be a checklist for those already working in the industry
- be an educational tool to assist new entrants
- provide an overview for those outside the industry.

We note in 6.10. ‘Dispute Resolution’- “The Undertakings all state that by 31 July of each year the Port Operator will report to the ACCC on any material Disputes in relation to an Access Agreement and any Disputes in the last 12 months, which will include the details of any resolution and the status of unresolved matters”.

We would recommend the establishment of an Industry Monitoring Panel similar to the current “Port Adelaide Container Terminal Monitoring Panel” established by the State Government and Chaired by the independent South Australian Freight Council Inc (SAFC), which has some legislative powers and involves representatives of key stakeholders along the supply chain. We would also recommend that any “Grain Monitoring Panel” again be Chaired by SAFC. This body could be charged with developing measures and monitoring the comparative performance for both ABB and non-ABB cargoes/chartered vessels, with the following points:

- Vessels failing survey (type, delay caused including time taken to re-enter the shipping stem/loading cargo/sailing).
- Throughput/Stock on Hand at Port (by Grade).
- Time taken to accumulate cargoes / Load In Rates (road and rail).
- Access to loaders.
- Changes to vessel loading slots (and reason).
- Load out rates and charges.
- Any other delays.