

REPORT TO THE HON RORY MCEWEN MP
MINISTER FOR AGRICULTURE, FOOD AND FISHERIES
AND
SA FARMERS FEDERATION GRAINS COUNCIL

REPORT BY THE SA BARLEY MARKETING WORKING GROUP

December 2006

1. Executive Summary

1.1. Introduction

In South Australia the export of barley is regulated by the *Barley Marketing Act 1993 (SA)*. This means that only ABB Grain Export Limited is entitled to export bulk barley from SA therefore creating what is called the barley 'single desk'. Pressure has been mounting for several years to see changes brought to the existing marketing arrangements. These pressures are both being applied by the state and federal government, through their support of the National Reform Agenda, which views the existing barley 'single desk' as anti-competitive and is therefore still considered non-compliant under the reform agenda, and also from a growing voice of disquiet amongst growers toward the current marketing arrangements. Another external factor that could have an impact is the likely changes that will occur to wheat marketing arrangements now that the findings from the Cole Inquiry into the actions of AWB under the UN's Oil-for-Food Program are released.

Therefore, a joint working group was initiated by the Hon Rory McEwen, Minister for Agriculture, Food and Fisheries, and its structure and terms of reference agreed upon jointly between the Government and SAFF Grains Council in June 2006. The working group was initiated to ensure that the current impasse that the industry faced in relation to barley export marketing in South Australia could be progressed to the satisfaction of all parties. Members of the working group included Mr Neil Andrew, Chair; Mr Garry Hansen, Mr Stuart Murdoch, Mr Michael Schaefer, Dr Don Plowman and Mr Geoff Knight.

1.2. Submissions and Consultations

At the start of the working group's deliberations an open call for submissions was made to relevant stakeholders who might be interested in contributing to the process. This included mailing a letter of invitation to all South Australian grain growers registered on the National Grower Register in July, mailing specific letters of invitation to companies and groups who might wish to make a submission, and placing two advertisements in the *Stock Journal*.

In total there were 26 written submissions received comprising: 15 submissions received from individual growers, two submissions received from 'grower groups', seven from grain marketing companies / traders and two from industry bodies who represent traders. After reviewing all the submissions, 14 of the groups who made a submission were invited to make a further presentation to the working group at individual consultations. In addition, the working group held a series of consultations with other people who had specific advice and input that was relevant to the deliberations of the working group.

1.3. Models considered

The working group focussed its review on the following options for barley marketing in South Australia:

- Retention of the current marketing arrangements, whereby ABB Grain Export maintains an export monopoly on bulk exports of barley.
- An independent 'single desk' arrangement, which at a minimum would incorporate an independent body operating as the marketing arm with services provided to it by companies like ABB Grain.
- A licensing arrangement whereby licenses can be issued for particular markets or marketers.
- An open marketing system (deregulation).

When assessing the potential models the working group focussed on viewing them in terms of the extent to which they address:

- The state's obligations under the National Reform Agenda.
- Delivering maximum benefit to growers and the SA economy.
- Confidence for growers in the new marketing arrangement.
- Potential for it to facilitate industry growth.
- Potential for it to facilitate or impede innovation.
- A model that reduces compliance costs and "red tape" whilst delivering elements that safeguard grower returns without necessarily impacting on international margins or grower returns.

The working group has concluded that the barley marketing arrangements in South Australia should be changed, and that the industry should be deregulated. However,

deregulation would only be introduced following a clear transitional step of licensing accredited exporters through the use of the Essential Services Commission of South Australia (ESCOSA) as the independent regulator. The transition step should be for a period of three years, and include an extensive and well funded education program to growers about the new marketing arrangements being introduced for barley marketing in SA.

1.4. Issues Considered

The working group developed an extensive list of key issues based on the salient points raised throughout the submission and consultation process. These were then further refined into a list that included the following issues that were identified of greatest importance when considering changes to barley marketing in South Australia:

- Structure to manage risk
 - Security of payment for growers
 - Concept of the ‘buyer of last resort’
 - Marketing opportunities for grain marketers / traders
- Maintenance of grain quality standards
- Maximising returns to growers
 - An efficient and accessible supply chain
 - Minimising the impost of regulation (political and administrative)
- Equitable access to critical grain infrastructure
- Market access and development
 - Supply of accurate and timely market intelligence
- Services to growers
 - Continued investment in research and development (R&D)
 - Identification and development of new markets
 - Availability of finance options, particularly the continuation of pools.
 - Information on varieties and their suitability to the marketplace
 - Classification of varieties
 - Risk management services
 - Supply chain management for least cost pathways to market
 - Factual and timely market information
- Achievement of National Reform Agenda requirements

1.5. Recommendations

1. That the bulk barley export market in South Australia be deregulated following a 3-year transition period of export licensing for companies participating in the South Australian barley export industry.
2. Any company wishing to export during the transition period must be accredited to gain a license.
3. That the government establish the legislative framework that will enable the regulatory role outlined in recommendations 1 and 2 to be performed by the Essential Services Commission of South Australia (ESCOSA).
4. That these measures take effect as from 1 July 2007.
5. That the government develop an MOU with the SA Farmers Federation Grains Council, representing SA barley growers, to facilitate the provision of a range of grower services in line with the needs of a deregulated market.
6. That the government support the delivery of a well funded and extensive education program to assist South Australian barley growers in making the transition to a deregulated barley market.
7. That the government pursue Federal funding opportunities for the initiatives outlined in this report.

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3. Disclaimer

This Report has been prepared by the SA Barley Marketing Working Group for the consideration of the Minister for Agriculture, Food and Fisheries and the SA Farmers Federation Grains Council only. Any conclusions or recommendations expressed by the working group in this Report are those of the working group, and do not represent the views of the South Australian Government, the Minister, or the Council. Any action taken in anticipation of the outcomes of the Report is at the risk of the persons taking such action.

4. Acknowledgements

The working group would like to acknowledge the facilities that were freely provided by PIRSA in order to hold the deliberations of the working group. In addition, the advice and input provided by the various groups and individuals through consultation with the working group is acknowledged and appreciated. This includes the many written submissions that were made in order to assist the working group in achieving its final recommendations. Finally, the working group acknowledges the input and advice provided by Dr Ben Gursansky and Ms Sally Fearn.

5. Introduction

5.1. Background

It is not intended that this section will provide a complete account of the history of barley marketing and the various changes that have taken place over the years as these are well understood and documented in other reports. However, some of the key matters are highlighted, in particular the events that occurred since the formal review of the South Australian barley marketing arrangements, which took place in 2003.

Rather than re-writing the background to barley marketing in South Australia leading up to the review undertaken in 2003, the following dot points are adapted from the review panel report to provide the relevant history to barley marketing reviews in South Australia prior to 2003 (Round *et al.*, 2003):

- The *Barley Marketing Act 1993 (SA)*, in particular sections contained within Part 4 of the Act, impose restrictions on the export of South Australian barley and hence establishing what is commonly referred to as the 'single desk' for barley. Through the provisions of the Act the exclusive rights to export South Australian barley are given to ABB Grain Export Limited, a wholly owned subsidiary company of ABB Grain Limited, with a few exceptions. The exceptions provided under the Act relate to barley that does not meet specifications; exports in bags or containers holding less than 50 tonnes; and the export of propagating material. The Act also provides ABB Grain Export Limited with exemptions in relation to the exporting of barley from the operation of the *Trade Practices Act 1974 (Cwth)*.
- Prior to the review undertaken in 2003, both the Victorian and South Australian Governments engaged in a review of the complementary barley marketing legislation operating in the two states. This review was performed in 1997 by the Centre for International Economics as a requirement under the National Competition Policy. Both governments accepted the review recommendations to remove the domestic market restrictions and to retain the barley export monopoly for the shortest possible transition period.
- Subsequently the South Australian parliament passed the *Barley Marketing (Miscellaneous) Amendment Act 2000*, which removed the sunset date of 30 June 2001 and amended the *Barley Marketing Act* to require that the Minister review the

single desk export arrangements in favour of ABB Grain Export Limited at the end of two years of operation. The decisions made by the South Australian Government were based on the strong support demonstrated amongst growers for the barley export single desk and also modelling work funded by ABB in the form of the Econtech report. At the same time, the Victorian parliament allowed the complementary legislation to sunset in 2001, resulting in the complete deregulation of barley marketing in Victoria.

- In November 2002, the then Minister for Agriculture, the Hon Paul Holloway, announced that Cabinet had decided to establish a review panel to conduct an “open, independent and robust” review of the *Barley Marketing Act 1993 (SA)*.

This review, commonly referred to as the ‘Round Review’, was carried out as a requirement of section 5 of the amended *Barley Marketing Act*. The requirement at the time was for the Minister to review Part 4 of the Act, which was undertaken through the establishment of a review panel comprising Professor David Round (Professor of Economics at the University of South Australia), Mr Ian Kowalick (former CEO of the South Australian Department of Premier and Cabinet), and Mr Greg Schulz (who at the time was the Deputy Chairman of the Grains Council of the South Australian Farmers Federation). The panel consulted with key stakeholder groups throughout the review process, and also provided these groups with the opportunity to provide written submissions to the panel. In addition, the review panel re-assessed the Econtech model, which was earlier developed through funding by ABB. The report was handed down to the Minister in May 2003.

The ‘Round Review’ considered and reported on five main policy options: the retention of the single desk, retaining the single desk only for feed barley to Japan, full deregulation, an ‘opt-in and opt-out’ option, and a staged review similar to the changes that were introduced in Western Australia (Round *et al.*, 2003). The key recommendations made by the review panel in 2003 included:

1. *ABB’s single desk for barley exports should be deregulated, so that it is exposed to a greater degree of market forces. This deregulatory reform should proceed by means of a streamlined process in which ABB retains its single desk, but is opened to competitive challenge through a contestability process.*

2. *That careful consideration be given to the principles of the Western Australian Grain Marketing Act 2002 as a model to form the basis of introducing contestability into the South Australian export barley market.*
3. *If Recommendation 2 is accepted, ABB should be deemed to hold the principal export license for barley.*
4. *If another company other than ABB is granted an export license, it is essential that growers who sell barley to this company can return to dealing with ABB in subsequent seasons if they so desire.*
5. *A licensing authority to oversee the process of contestability, and to grant export licences where appropriate, must be established. Its comparison will be crucial to its success and the success of deregulation. No more than two of its five members should have any association with the barley or the wider grains industry.*
6. *The licensing authority should be reviewed within one year of commencing its role and thereafter at least every three years. (Round et al., 2003).*

Following a series of consultations with other state departments, the Federal Treasurer and industry, Minister McEwen tabled the *Barley Exporting Bill 2004 (SA)* in State parliament on the 30th of June 2004. When introducing the bill, the Hon Rory McEwen stated that “the reason for bringing this Bill to Parliament is to avoid a competition policy payment penalty of \$2.93 million from the 2003 assessment” (McEwen, 2004). He added that “The Government deliberately delayed the commencement of the Act until the 2005-2006 season so as to give industry time for the merger between ABB Grain Pty Limited and Ausbulk Limited to be settled, and to enable new arrangements to incorporate key findings from the reviews of the Grain Licensing Authority (GLA), the Wheat Export Authority, and the Productivity Commissions review of NCP” (McEwen, 2004). The bill included an allowance of 12 months for industry consultation in the development of the regulations, with the bill being as flexible as possible so that it could achieve the minimum requirement under National Competition Council (NCC). This differs to Western Australia where the detail is provided within their Act, and the difference in South Australia did draw some criticism at the time.

Parliamentary debate on the *Barley Exporting Bill 2004* was adjourned following its introduction, primarily so that the proposed merger between ABB Grain Limited and Ausbulk could progress without being adversely impacted by a protracted public debate

about the merits or otherwise of changes to barley marketing in South Australia. Debate on the bill was not resumed and it eventually lapsed at the end of the parliamentary session. Since that time there have been a number of drivers for change that have led to the establishment of the working group. At the commencement of the working group deliberations it was noted that the Government's expectations and requirements from the process include:

- Commitment to completing the outstanding National Reform Agenda obligations;
- Being able to respond to grower concerns about the existing marketing arrangements; and
- Desire to achieve the industry targets that have been established under the SA strategic plan, in particular to triple exports by 2015, and that more diversity in the marketplace might allow for this to occur so that marketers can move away from relying on bulk export marketing of a grain commodity and increase the level of value added grain products being exported.

In relation to the seemingly growing voice of change being requested by industry, this is highlighted in the fact that although a majority of growers who responded to the SAFF Grains Council ballot conducted in March 2006 still support barley 'single desk' marketing in South Australia, the majority of growers who responded want this to be managed independently and not to continue as the status quo. The results of the ballot were recorded following the establishment of the transparency committee with ABB Grain Limited (as described in Box 1), indicating that further changes are still sought by the majority of the growers who responded to the ballot.

Box 1 – Growers calling for increased transparency and accountability

Increasingly the industry has been looking for changes to the existing marketing arrangements, as demonstrated at the SA Farmers Federation's Grains AGM in March 2005 where motions were carried by grain grower members in relation to improving the transparency and accountability in barley marketing. This included the following resolutions:

Resolution 5:

That the SAFF Grains Council explore and where appropriate, negotiate with government changes to the barley marketing arrangements including:

- * Improvements in accountability and transparency of pool operations;*
- * Regulated export licence(s);*
- * Third party access to the pools (if only one licence is issued);*
- * Differentiation between grain handling, sales and related businesses so that the value from pools is not compromised;*
- * Continuation of market development, QA and research; and*
- * A mechanism to ensure that the necessary changes are complied with.*

Resolution 6:

That the SAFF Grains Council continues to develop accountability and transparency mechanisms for the operation of the single desk as managed by ABB Grain Export.

This led to an announcement by the SA Farmers Federation Grains Council in August 2005 that three mechanisms had been adopted to achieve greater accountability and transparency, which included the development of a pool performance report, the establishment of a transparency committee and third party access to the South Australian barley pools (Roberts, 2005). In a subsequent announcement by the SA Farmers Federation, it was stated that the SA Barley Single Desk Transparency Committee formed between SAFF and ABB had appointed Ernst & Young to conduct the audit, which included the following issues identified by SAFF:

- * Internal sales and purchases, and stock swaps between ABB Trading (including malthouses) and ABB's export pools;*
 - * Bulk handling and freight agreements and transactions;*
 - * Third-party stock swaps and sales/purchases; and*
 - * Grain Australia (ABB's joint venture with Grain Pool WA) transactions*
- (Rackham, 2005).

As identified under section 5.2 of this report, the continuation of the existing barley marketing arrangements has not achieved its obligations under the National Reform Agenda. This is something that was referred to within the supporting documentation to the barley ballot conducted by the SAFF Grains Council that the results from Part 3 of the ballot would be relevant 'if the National Competition Policy requirement makes change inevitable' (SAFF, 2006). Another consideration is that in other states significant changes have occurred whereby the barley markets in Victoria and NSW have fully deregulated in 2001 and 2005, respectively, and through the introduction of the GLA in Western Australia

(Table 1). These changes interstate has led them to meet their obligations under the National Competition Policy, which means that South Australia is the only state that has not met its NCP requirements for barley marketing.

Table 1. Changes in Export Grain Regulation - 1999/2000 to 2005/2006

		QLD	NSW	VIC	SA	WA
Wheat	'99/00	Regulated Exports	Regulated Exports	Regulated Exports	Regulated Exports	Regulated Exports
	'05/06	Competitive Exports	Competitive Exports	Competitive Exports	Competitive Exports	Competitive Exports
Barley	'99/00	Regulated Exports	Regulated Exports	Regulated Exports	Regulated Exports	Regulated Exports
	'05/06	Competitive Exports	Competitive Exports	Competitive Exports	Regulated Exports	Competitive Exports
Canola	'99/00	Regulated Exports	Regulated Exports	Regulated Exports	Regulated Exports	Regulated Exports
	'05/06	Competitive Exports	Competitive Exports	Competitive Exports	Competitive Exports	Competitive Exports
Lupins	'99/00	Regulated Exports	Regulated Exports	Regulated Exports	Regulated Exports	Regulated Exports
	'05/06	Competitive Exports	Competitive Exports	Competitive Exports	Competitive Exports	Competitive Exports
Sorghum	'99/00	Regulated Exports	Regulated Exports	Regulated Exports	Regulated Exports	Regulated Exports
	'05/06	Competitive Exports	Competitive Exports	Competitive Exports	Competitive Exports	Competitive Exports

SOURCE: Thomas and Storey, 2006.

With the changes that have taken place interstate for barley marketing, the likely changes that will result to wheat marketing in Australia (refer to section 8.8), the State Government's commitment to fulfilling the National Reform Agenda obligations, and the apparent increasing call for changes from South Australian barley growers then changes to export barley marketing in South Australia are necessary.

5.2. National Competition Policy

National Competition Policy (NCP) for Australia was agreed upon in April 1995 by all Australian governments, which led to the following intergovernmental agreements being reached:

- The Competition Principles Agreement (CPA);
- The Conduct Code Agreement; and
- The Agreement to Implement the National Competition Policy and Related Reforms (Implementation Agreement). (NCC, 1998).

The existing *Barley Marketing Act 1993 (SA)* is one of the pieces of outstanding legislation that is considered to not have achieved its requirements against the CPA clause 5 obligations, with NCC stating that in order to meet the outstanding obligations the state government must implement the recommendations contained within the 2003 assessment (NCC, 2005). At the conclusion of the incentive payment program in June 2006 the South Australian government had forgone a total of \$8.9M of payments in relation to barley marketing, which are now considered permanent deductions.

In 2005 the Productivity Commission was asked to assess the benefits of the NCP reform. In their review of NCP the Productivity Commission was very positive in its assessment of the successes of this reform agenda, and estimated that NCP had increased Australia's GDP by at least 2.5 per cent (Productivity Commission, 2005). This positive view of National Competition Policy is supported by business groups such as the Business Council of Australia (BCA, 2005), and also through the re-commitment by the Council of Australian Governments to the principles of National Competition Policy (COAG, 2006a; COAG, 2006c).

At the COAG meeting held on February 10th, 2006 the following decisions were recorded in relation to competition reform:

“Legislation Review

Decision 1.1

COAG agreed that:

- (a) all jurisdictions will recommit to the principles contained in the Competition Principles Agreement; and*

Decision 1.2

Each jurisdiction will:

- (a) continue and strengthen gate-keeping arrangements established in the National Competition Policy (NCP) arrangements to prevent the introduction of*

unwarranted competition restrictions in new and amended legislation and regulations; and

(b) complete outstanding priority legislation reviews from the current NCP Legislation Review Program in accordance with the NCP public benefit test.”
[Emphasis added] (Source: COAG 2006).

Contained within the report supporting the February 2006 communiqué it was stated that:

Some jurisdictions argued that a commitment to complete outstanding legislation reviews should be dependent on the availability of competition payments or be confined to those reviews for which penalties are applied in the National Competition Council 2005 assessment. [Emphasis added] (Source: COAG 2006b).

The decisions made at COAG meetings in 2006 were also supported at the recently formed Council for the Australian Federation. This new Council, which held its inaugural meeting in Melbourne on the 13th of October 2006, acknowledged the importance of a new National Reform Agenda in positioning Australia “as a skilled, healthy, educated and prosperous society” (Council for the Australian Federation, 2006).

In the material associated with the new National Reform Agenda it does not appear that any guarantees have been provided as to whether incentive payments similar to those applied under NCP would continue in the future. In their review of NCP the Productivity Commission stated that “competition payments have played a pivotal role in maintaining reform momentum within the States and Territories” (Productivity Commission, 2005, p. 152). Certainly it is suggested that one of the lessons learnt from NCP is need for real incentives to assist in achieving the reform agenda in the future, along with having an independent oversight structure (CIE, 2005).

Even though no specific incentive payments have been committed to for the new Reform Agenda, the Commonwealth has indicated funding will be provided to the States and Territories on a case-by-case basis (COAG, 2006a), and that “funding implications, where appropriate, will be considered by all jurisdictions once each specific reform proposal has been substantively developed” (COAG, 2006c).

5.3. Establishment of the Barley Marketing Working Group

The joint working group was initiated by the Hon Rory McEwen, Minister for Agriculture, Food and Fisheries, and its structure and terms of reference agreed upon jointly between the Government and SAFF Grains Council in June 2006. The working group was initiated to ensure that the current impasse that the industry faced in relation to barley export marketing in South Australia could be progressed to the satisfaction of all parties.

Membership of the working group was developed through consultation between government and industry, and comprised:

- Chairman: Mr Neil Andrew, former Federal member for Wakefield and Speaker of the House of Representatives.
- Mr Garry Hansen, a grain grower from Coomandook.
- Mr Stuart Murdoch, a grain grower from Warooka.
- Mr Michael Schaefer, a grain grower from Buckleboo.
- Mr Geoff Knight, Acting Chief Executive Officer, Primary Industries and Resources South Australia.
- Dr Don Plowman, Executive Director, Agriculture and Wine with Primary Industries and Resources South Australia.

At its second meeting on July 17 the working group discussed and agreed to Ms Sally Fearn, Ministerial Adviser to the Hon Rory McEwen, joining the group as an observer.

5.4. Terms of Reference

In undertaking the review, the working group was guided by the following Terms of Reference:

- To represent the best interests of the SA grain growers and the broader grains industry in ensuring that grain marketing arrangements are maximising the benefits to growers and industry, whilst taking into consideration the State Government's requirements under the National Competition Policy framework.
- To be a working group that is led by industry through representation from the SAFF Grains Council, with the Government providing support in implementing necessary changes.

- To undertake consultation with industry and other suitable representatives in the development of a model for future barley marketing in SA. This includes, but is not limited to:
 - ABB Grain & ABB Grain Export Limited; and other significant grain trading entities.
 - Other industry representative bodies, such as National Agricultural Commodities Marketing Association (NACMA) SA, Australian Grain Exporters Association (AGEA).
 - Other Government Departments, which might include Treasury and Premier & Cabinet, who would have input from the National Competition Policy requirements.
 - Other leading industry representatives.
- To provide advice and oversee any regulatory changes required to implement the working group's recommendations.
- To report regularly to the Minister and SAFF Grains Council.
- To take account of the outcomes and recommendations from the Cole Inquiry and its likely impacts on grain marketing.

The original timeframe for delivering this report was scheduled for October 31. However, the deadline for public release of this report was delayed in order to accommodate the responsibilities of working group members in addressing issues relating to the drought for the respective businesses or agencies, and also to provide time to follow-up on some final consultations when developing the remaining recommendations. The timeframe was extended with the aim of releasing this report in early December 2006.

5.5. Domestic grain consumption trends

During the early stages of the working group's deliberations consideration was made to the future demands for barley in South Australia and Australia. This was based on consultations with representatives from the Department of Primary Industries and Resources (PIRSA) grains industry development group, who had analysed potential demand for both malt and feed barley. Basic analysis by PIRSA is included within Table 2.

Table 2. Future projections of barley production in South Australia (Source: PIRSA).

	2005 / 2006	2011 / 2012
Barley production - SA	2.48 mt	2.53 mt
Malt (domestic / export)	1.18 mt	1.21 mt
Feed (domestic / export)	1.3 mt	1.32 mt
<i>Projections</i>		Required extra tonnage
Biofuels **		0.2 mt
Domestic feed *		0.4 mt

* Based on projected growth and direction of the pig and poultry production, and other intensive industries

** Based on one plant being established.

Domestic market demand generally remains static, and with fluctuations in production this generally is reflected in export markets. Out of all these figures the least accurate projections would be for biofuels as there are a range of unknowns, including whether Australia becomes active in this industry and the use of alternate green biomass as a renewable fuel (i.e. straw, timber etc). Work conducted with the intensive livestock industries shows that they generally stay within 100km of an abattoir.

It was also noted during consultation with Single Vision Grains Australia (SVGA) that about 7% of a farmer's growing area would need to be allocated to biodiesel production if they wanted to produce their own fuel. Work reported in the *Single Vision* plan (GRDC and GCA, 2004), indicated that domestic demand for cereals as either a food, stockfeed or non-food use (biofuels, lubricants, starches for use in the pharmaceutical industry) are projected to grow from 14M tonnes to 30-40M tonnes in 2025. The expansion into biofuel production does pose a potential threat to the percentage of barley crop planted to malt, as ethanol production will be geared toward higher yielding feed barley varieties with high starch content.

5.6. Exports of Australian barley

During many consultations with participants in the barley industry it was commented that the relationships have changed in the international marketplace. Traditionally grain trading took place with Government to Government relationships, whereas as now the

relationships tend to be company to company. Although governments might still play a role in establishing the trade and exporting / importing standards for a country, the actual marketing relationship is undertaken between two commercial enterprises.

Based on Australian Bureau of Agricultural Resource Economics (ABARE) statistics over a five-year period between 2000-2001 and 2004-2005, the data shows that approximately 68% of Australia's 7.1M tonne barley production was exported (ABARE, 2005), indicating the strong reliance on the export market for Australian barley. In terms of a comparison to the rest of the world, Australia's five-year average production equates to approximately 5.1% of the global barley production, with Australia supplying approximately 29% of the total world exports of barley out of a total global export market of 16.9M tonnes (ABARE, 2005). The next largest exporter of barley is the European Union with 25% of the global exports of barley.

Analysis by PIRSA shows that there are two principle export markets for barley – malt barley into China and feed barley into Saudi Arabia. ABARE statistics demonstrate that over a five-year period the China market imported on average 1.9M tonnes of barley (or 12% of total imports), whilst Saudi Arabia imported 6.1M tonnes across the same period (or 38% of total imports) (ABARE, 2005). This balance is also reflected in the ABB exports for the 2003-2004 pool, which are presented in Figure 1.

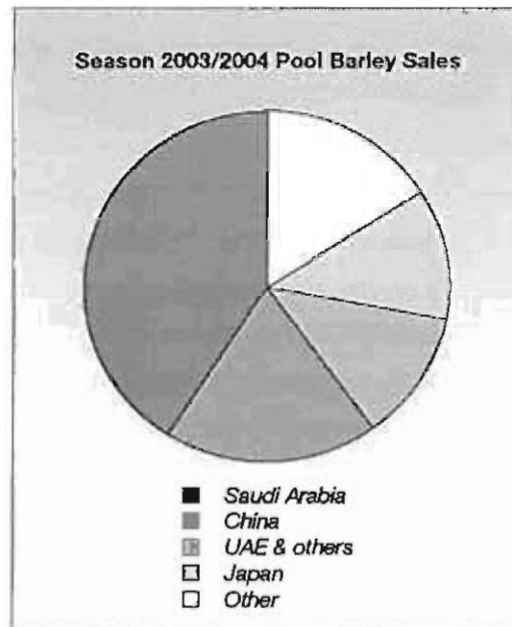


Figure 1. Major barley markets for the ABB export pools in 2003-2004 (SOURCE: ABB, 2005).

During consultations between the working group and PIRSA's grains industry development group a number of key points were recorded in relation to the international barley market. In addition, information was also collated from internet research and material provided by grain marketing companies in Australia. The key points are summarised as follows:

- The largest barley importing nations are Saudi Arabia and Japan for feed barley and China for malting barley. Given South Australia is an export dominated state it is highly dependent on the continuation of the trade into these markets and is facing increasing competition from the European Union, Russia and the Ukraine.
- Malt exports to China are restricted by a tariff regime, whereby the rate is 3% for malting barley and 35% for malt, providing favouritism toward the importation of malt barley over malt.
- South Australia only has a small domestic malt barley market and therefore prices are set on a world parity basis, making the state price takers in the world market.
- Globally there is an increasing demand for greater product integrity through traceability within the supply chain, in particular markets like Japan. This is an

area that the industry will need to adapt to in the future, which is likely to place increased pressure on the need for clear market segregations being available.

- South Australia currently has around 35% of Australia's malting capacity. It is estimated that approximately 60% of barley plantings in South Australia are to malting varieties such as Sloop (28%), Schooner (25%) and Gairdner (7%). From this total planting, approximately 45% of the total crop is actually segregated for malt.

Another issue that must be considered is the price of oil, which has large implications to the cropping industry due to their reliance on oil based inputs and that the commodity is marketed around the world on rail, road and shipping infrastructure. Efficient supply chains are imperative to addressing the declining terms of trade, and must be at world's best practice in order to not constrain the efficiencies of the farm production sector (National Farmers Federation (NFF), 2006).

5.7. Comment on seasonal conditions

During the course of the deliberations undertaken by the working group the state of South Australia has seen the worsening of the seasonal conditions as a nationwide drought has grown in 2006. At the start of the deliberations in June 2006, the crop forecasts were for a total harvest of 6.95 million tonnes, which was attributed to the prediction of a record crop planting area of 3.83 million hectares based on early sowing dates (PIRSA 2006).

Ultimately, the total area sown was estimated in October to be 3.72 million hectares, slightly lower than the five-year average of 3.75 million hectares (Fulwood, 2006).

By the end of October 2006 the crop estimates had been downscaled to 3.042M tonnes, with barley estimates being 1.046M tonnes (Fulwood, 2006). Based on a five year average for barley of 2.2M tonnes, this equates to a forecasted 53% reduction on yield production for the 2006-2007 harvest period. In addition, South Australia has seen the introduction of stage 2 water restrictions.

It is important to note that with the shortage of grain in South Australia taking effect it has seen early price volatility in the 2006-2007 harvest through the increasing demand on grain, particularly by domestic end-users who are actively ensuring that they have grain

supplies available for the coming months. With this came greater market risk and price volatility, demonstrating the risks that can occur when grain supplies are uncertain. This price volatility saw growers being exposed to competitive cash pricing generated through increased demand within the deregulated domestic market. With a large disparity between the pool prices being offered compared to the cash prices (over \$100/tonne on a cash equivalent basis on 12 October), growers were being encouraged to build small parcels to raise their average price rather than trying to sell all their barley at the top of the market during harvest, particularly as traditionally when the cash price falls it does so quite dramatically (Rural Directions, 2006). It also led ABB to establish domestic wheat and feed barley pools at selected South Australian sites in order to capitalise on strong domestic demand in the Eastern States (ABB, 2006a; 2006b).

These observations are made simply to draw focus on the fact that rural communities are enduring a period of challenge and low economics, and that this must be taken into account through the process of change to barley marketing in South Australia. It is a factor that will emphasise the need to educate growers about these changes and how they will need to be more actively involved in the management of marketing risk in a less regulated market place.

6. Submissions and Consultations

6.1. Submissions to the Working Group

At the start of the working group's deliberations it was acknowledged that there have been many meetings around the state with growers on various marketing models / options, and in addition there has been a ballot and surveys about the direction on barley marketing. Therefore, it was agreed that public forums were not warranted as part of the working group process, particularly when also considering the timeframe available to the working group. The working group were conscious of the fact that the debate surrounding barley export marketing in South Australia has been a drawn out process and so it was advisable to finalise these proceedings quickly.

Requesting Submissions

In July 2006 the working group invited individuals and groups to make formal submissions against the stated terms of reference provided. This included the following:

- An open letter to growers, outlining the process and inviting them to make a submission to the working group. The letter was sent to 11,650 grain growers, being all SA registered growers on the National Grower Register (NGR).
- A letter inviting submissions was also sent to marketing and trading companies as listed below:
 - AWB Limited
 - ABB Grain Limited
 - Australian Grain Accumulation (Graincorp, Cargill and Allied Mills)
 - Elders
 - CBH Group – WA
 - National Agricultural Commodities Marketing Association (NACMA) SA
 - Australian Grain Exporters Association (AGEA)
 - Single Desk Foundation
 - Callum Downs Commodity News
 - Rural Directions
 - ASX Grain Futures
 - Grains Council of Australia

- Brooks Grain
- Two advertisements in the *Stock Journal*, on the 27th of July and the 17th of August 2006.
- The date for submissions formally closed on the 25th of August. However, any reasonable request for an extension to this timeframe was provided to growers or other groups.

A copy of the correspondence and advertisements relating to this call for submissions is provided under Appendix A.

Summary of submissions

In total there were 26 written submissions received comprising: 15 submissions received from individual growers, two submissions received from 'grower groups', seven from grain marketing companies / traders and two from industry bodies who represent traders. These submissions are broadly categorised under Appendix B.

Each submission was assessed by individual working group members against an agreed set of guidelines. Following the assessment, the submissions were categorised and the working group agreed upon a list of fourteen groups who made submissions to also undertake a formal consultation to expand on any points contained within their submission. Formal receipt was provided to all groups and individuals who made submissions to the working group, but were not invited for a consultation. However, everyone was invited to have a consultation with the working group if they felt that there was something they wished to emphasise further through a formal presentation.

6.2. Consultations with the Working Group

The working group held a series of consultations with fourteen groups who made written submissions at meetings on September 7, 8 and 26.

The working group also held consultations with a range of other entities as part of its information gathering process. This included individuals who had specific experience and knowledge in grain marketing and supply chain issues, through to organisations that

currently provide industry services and / or regulatory support to other industries. The names of people and entities consulted, together with a summary of the issues, are listed in Appendix C.

Also contained under Appendix C is a list of references to media statements made by the working group chairman, Mr Neil Andrew, during the course of the group's deliberations.

7. Consideration of marketing models

The working group, throughout its deliberations, was extremely mindful of the timeframe available to report and was determined to ensure that the process was not drawn out unreasonably. Therefore, the working group agreed at its first meeting that it would pursue already existing and established models available in other reports, including the marketing arrangements occurring in other states of Australia for barley. This included:

- Policy options and recommendations tabled within the Round Review Report (Round *et al.*, 2003).
- Models considered in the work of Thomas and Storey (2006).
- The current Grain Licensing Arrangements in Western Australia.
- Deregulation of barley marketing in Victoria, NSW and Queensland.

In assessing the potential models the working group focussed on viewing them in terms of the extent to which they address:

- The state's obligations under the National Reform Agenda.
- Delivering maximum benefit to growers and the SA economy.
- Confidence for growers in the new marketing arrangement.
- Potential for it to facilitate industry growth.
- Potential for it to facilitate or impede innovation.
- A model that reduces compliance costs and "red tape" whilst delivering elements that safeguard grower returns without necessarily impacting on international margins or grower returns.

Therefore, in assessing the options for barley marketing the working group considered the following structures:

- Retention of the current marketing arrangements, whereby ABB Grain Export maintains an export monopoly on bulk exports of barley.
- An independent 'single desk' arrangement, which at a minimum would incorporate an independent body operating as the marketing arm with services provided to it by companies like ABB Grain.
- A licensing arrangement whereby licenses can be issued for particular markets or marketers.

- An open marketing system (deregulation).

The advantages and disadvantages of each marketing structure were developed based on the material presented to working group through formal submissions and also through direct consultation with the working group.

7.1. Retention of the current marketing arrangements

The current marketing arrangements, as set out within the *Barley Marketing Act 1993 (SA)*, create a number of restrictions on the ability to export South Australian barley. This is commonly referred to as a 'single desk', and provisions of the Act give ABB Grain Export Limited the exclusive rights to export bulk shipments of barley from South Australia. The purpose for stating that the arrangements currently operating in South Australia are commonly referred to as a 'single desk' is due to the fact that in reality there is no barley single desk. This statement is based on the fact that around Australia every state has some degree of deregulation for barley marketing, with full deregulation in the eastern states and partial deregulation in the form of a licensing arrangement in WA. It can be argued that a single desk can only be a single desk when in fact there is only one exporter of barley from Australia, as is currently the case for wheat.

In terms of formal submissions to the working group, there were four made from growers in support of 'single desk' marketing and two from grain marketing companies. This was out of a total of 26 submissions to the working group.

The principle reasons cited by growers who made submissions in support of the current marketing arrangements included the stability that it brings to the industry, the fact that approximately 80% of growers who responded to the SAFF barley ballot in early 2006 supported the retention of the 'single desk' and that by abandoning the system that long term, respected and reliable relationships with buyers, which has been built up over many years, will be lost.

Growers who supported the retention of the current arrangements also expressed their confidence in the reliability of the ABB payments and raised concerns about the number of traders who are late in making payments, citing Australian Foods in early 2004 as an

example. Reference was also made to the fact that the 'single desk' treats all growers fairly with average long term prices. There was also reference to the fact that the NCP should not be an issue as the 'single desk' is restricted to the export market and therefore is not a concern for domestic competition policy reform.

In reference to submissions from grain marketing companies in favour of the 'single desk' arrangements cited the following pillars of the marketing system:

- Provides a 'single face' to the market place and therefore creating market influence and reducing sales competition.
- Allows the managed supply of barley onto the marketplace to maximise international pricing opportunities.
- Managing quality standards for delivery to the export market.
- Capacity and certainty to enter into long-term rail contracts.
- Supports market development necessary to achieve price and volume maximisation.
- Encourages investment in R&D for public good.
- Growers have a marketer that must act primarily in the interests of growers.
- Provides for a buyer of last resort, guaranteeing that there is always a marketer offering a price for barley on any given day.

Other factors in support specifically for the barley 'single desk' in SA includes the joint venture between ABB and Grain Pool Pty Limited (WA) called Grain Australia, which increases the market power in the international market. In addition the Econtech report produced in 2003 demonstrated the 'single desk' provided \$8 million average annual net benefit to South Australia (Econtech, 2003).

A number of these issues raised were contested by other groups advocating changes to the working group. These are handled in the next sub-heading relating to the disadvantages of the existing marketing arrangements.

In summary, the following broad advantages were identified in relation to the barley 'single desk':

- A way of collectively marketing South Australian barley in the export market.
- Grower confidence through a sense of 'security of payment'.

- Sharing of the marketing costs amongst all growers (socialising losses and sharing returns).

The submissions made to the working group advocating either a licensing arrangement or deregulation highlight areas that they believe are a disadvantage of the existing marketing arrangements.

Many of the grower submissions advocating change pointed to their concerns and frustrations in the lack of competition in the barley market, citing that the 'single desk' is preventing them from being able to have choice in the marketing arrangements. In some cases there was frustration expressed as a result of the merger outcome where growers see that ABB not only has the 'single desk', but also has a monopoly through its storage and handling facilities and also being the major domestic user of malt barley. In order to maximise their returns on barley the growers argued that they need to have the competitive choice. The fact that South Australia has experienced lower barley prices compared with the deregulated eastern states, and the partially deregulated WA, is also of concern and attributed to the existing 'single desk' arrangements in place in SA.

During various consultations it was pointed out that the various reviews and reports that have been completed to date, except for the Econtech modelling, there have been very little value or benefit that could be argued in favour of the 'single desk' when compared with a less regulated market. In terms of the barley export 'single desk' in South Australia there has already been two reviews conducted, as described in section 5.1 of this report, both of which suggested that there was no additional benefit that the 'single desk' generates, however, ultimately both have been unsuccessful in delivering any legislative change. It was further suggested during consultations that if the 'single desk' model is the best system moving forward then it should be possible to demonstrate this in an open market purely by the size and scale of ABB with its current investments in the supply chain.

During consultations some of the traders expressed a view point that the 'single desk' has lost value to growers in the vicinity of \$4-5 per tonne when compared to WA. The argument was made that the 'single desk' comes at a cost, and that the often quoted premiums from Japan are not a factor of having a 'single desk' but the nature of that

market. It was further argued that it is obvious that the Victorian market has prospered from deregulation and that at a minimum it has not gone backwards.

Others who advocate change also commented that opponents to deregulation often raise concerns about the future management of Quality Assurance, R&D investment and infrastructure. Supporters of deregulation in response to this argument in favour of collective marketing referred to the oilseeds and pulse markets as examples that these issues will not be lost upon deregulation. It was mentioned that issues such as quality standards are maintained within these deregulated industries through NACMA. Investment and co-ordination of R&D is achieved through appropriate industry bodies like the Grains R&D Corporation, SA Grains Industry Trust, Australian Oilseeds Federation, Pulse Australia and to some extent NACMA. Therefore it is summarised by the supporters of change that the services can be carried out by industry in deregulation, and therefore hold reservations about the true benefits of regulation through 'single desk' marketing.

The other issue, of course, with maintaining the existing marketing arrangements is that they do not meet the requirements under the National Reform Agenda, as outlined in section 5.2 of this report. The proponents of maintaining the existing arrangements referred to the uncertainty about the continuation of NCP and in particular the incentive payments associated with changes, which ended in 2005-2006. The point made about incentive payments is correct, but what is neglected in this argument is the more recent statements from COAG about the State and Federal Government's support for the continuation of the National Reform Agenda principles, something cited extensively within section 5.2 and 8.7 of this report. The other consideration and relatively unknown component is the impact that changes to wheat marketing will ultimately have on the barley marketing arrangements in South Australia (refer to section 8.8).

In summary, the following broad disadvantages were identified in relation to the barley 'single desk':

- Lack of marketing choice for growers in terms of whom they can deal with.
- Low degree of transparency in the marketing arrangements.
- Limited competition for services being delivered for barley marketing (ABB Grain Export is serviced by ABB Limited, the parent company).

- Price differential between SA and other states for barley.
- Does not meet the National Reform Agenda guidelines.
- The conflict of interest between maximising returns for both growers and shareholders.

7.2. A more independent 'single desk'

Very few submissions were received in favour of the adoption of a more independent 'single desk'. In total there were two submissions received – one from an individual grower and the second from a group of growers from the Eyre Peninsula. It should be noted that reference was made by ABB in their submission and also through their consultation to the steps that they have adopted to increase independence in the operation of the existing arrangements.

A concern was expressed about the monopoly power ABB currently has with the storage and handling facility, and so asked that the 'single desk' be retained but be operated by an independent authority. A group of barley growers from the Eyre Peninsula provided a submission to the working group with a consolidated viewpoint expressing the need to retain some form of collective marketing arrangement provided through the pools. Although they advocated that if a monopoly exporter then the privilege should be controlled and managed by an autonomous and independent board. However, they equally argued for an authority to provide export permits if the market had to open up to other grain marketers. These points are discussed in more detail under the licensing arrangements section of this report (section 7.3).

It should be noted that within the submission by ABB they outlined recent changes to ABB's management of the transparency framework of the 'single desk'. Reference was made to the establishment of the SA Barley Marketing Single Desk Transparency committee, which is described within Box 1 of this report. However, it should also be noted that the ABB board recently voted to change the structure of the board of ABB Grain Export Limited. Prior to the implementation of the transparency steps the ABB Grain Export Limited board and the ABB Grain Limited board were identical. The new structure of the ABB Grain Export Limited board includes:

- Three A-class directors from the ABB Grain Limited board (currently Trevor Day (Chair), Paul Daniel and Dr Andrew Barr).
- An ABB appointed independent director (John Bastian).
- A SAFF appointed independent director (vacant, with the decision delayed by SAFF given the deliberations of the working group).

ABB stated that the ABB Grain Export Limited board now comprises a majority of South Australian barley growers.

Certainly the steps carried out by ABB have been carried out following the results of the SAFF barley ballot conducted in March 2006, whereby growers who responded indicated that that approximately 60% wanted an independent 'single desk' in the event that the 'single desk' is maintained. This is a good step that has been taken by ABB in attempting to address the concerns of growers, however, it should be noted that the supporting material explaining what was meant by an independent 'single desk' indicated that it could include:

- *ABB Grain Export Limited having its own Board which has a single focus of maximizing pool returns. It may have some common directors with ABB Grain Limited, but would have a majority of directors independent of ABB Grain Limited.*
- *An independent chair of ABB Grain Export Limited.*
- *Mechanisms to bring about greater contestability in services provided to ABB Grain Export Limited (i.e. in the provision of finance etc) (SAFF, 2006).*

In summary, the following broad advantages were identified in relation to a more independent barley 'single desk':

- A way of collective marketing South Australian barley in the export market.
- Grower confidence through a sense of 'security of payment'.
- Sharing of the marketing costs amongst all growers (socialising losses and sharing returns).
- Potentially more competition in the provision of services to the 'single desk'.
- Removal of the conflict of interest between maximising returns for both growers and shareholders.

It is not possible to draw on any comments made within submissions or consultations against the concept of a 'single desk' as none were provided during the deliberations of the working group.

However, a general comment that can be made is that the steps to introduce an independent 'single desk' are not likely to meet the National Reform Agenda guidelines outlined in section 5.2 of this report. For instance, if you take into consideration the steps that ABB have already undertaken to achieve some degree of independence and transparency, given that none of these required legislative change, and the working group notes that it is the existing *Barley Marketing Act 1993 (SA)* that does not achieve the requirements under National Reform, then it will continue to be in breach of this most basic requirement.

In addition, an independent 'single desk' does not address the many concerns raised during submissions and consultation about the lack of competition and choice available in the barley export market, which is outlined in section 7.1. In some regards the move to an independent authority managing the 'single desk' is almost a step back to the past to when it was operated by a statutory authority, a situation that would not be feasible in today's industry and unlikely to allow the industry to move forward.

In summary, the following broad disadvantages were identified in relation to an independent barley 'single desk':

- Would be costly to establish and administer.
- Would require additional regulation.
- Lack of marketing choice for growers in terms of whom they can deal with.
- Does not meet the National Reform Agenda guidelines.

7.3. Licensing arrangement

In total 11 submissions were received that made reference to supporting the concept of licensing arrangements for the SA export barley marketing. Of these, three were received from marketing companies, two were received from groups of growers and six were received from individual growers. In the context of this section, the use of licensing arrangement by groups making submissions was either focusing on something similar to the GLA, or was a license restriction for the Japan market only, a model outlined in both

the report by Round *et al.* (2003) and Thomas and Storey (2006). This section also includes comments made during invited consultations where a formal submission may not have been received.

Those advocating for licensing arrangements often referred to it as a transitional process to deregulation. It was viewed that by bringing in a small amount of competition through the issuing of a limited number of licenses allows the industry, in particular growers, to adjust to a slightly more competitive market before being exposed to full deregulation. The difficulty of course is in relation to the number of concerns raised about the costs and limitations of a licensing arrangement, particularly by members of the trade.

Growers who supported a licensing arrangement wanted to see some additional competition to come into the market to allow for alternative pricing options to be presented. However, some growers are approaching licensing from the argument of being supportive of collective marketing for barley. Therefore they wished to see the pools protected from being competed down by competitors who enter the market. This was not to prevent other exporters from offering pools, but acknowledging that licenses would need to be limited so as not to impact on the principle license holder's pools. The difficulty is that the experience in Western Australia is that no upper or lower limit can be applied to the amount of licenses offered because otherwise it would not be compliant with the NCP requirements.

Another advantage that has been observed in WA in relation to the GLA is that the principle license holder has had to improve its services to growers in order to remain competitive with special export license holders attempting to accumulate in the market. This form of pressure would not have occurred if there had not been any competition brought into the market place through the GLA.

This has also brought about stronger cash prices being available in WA since the introduction of the GLA. It is fair to say that not every grower is able to achieve the highest price, but the options are available. In addition there have been more pool options introduced through the competitive pressures of the market.

In summary, the following broad advantages were identified in relation to the introduction of a Grain Licensing Authority similar to WA:

- Achieved NCP requirements for barley marketing in Western Australia.
- Provides some competition in the marketplace and therefore choice for growers.
- Provides a transition step from regulation to deregulation for growers.

Given many of the groups who made submissions, particularly from the trade, indicated that the introduction of a licensing arrangement is simply a transition step then there are a number of issues that make this option unfeasible.

For one the successful implementation of a licensing authority will be dependent on the ability of the officers to establish relationships of trust with the trade and exporters. This is a difficult component of the commencement of the licensing arrangements and could take at least 12 months to have an effective relationship built. The difficulty is that in a transitional step the amount of time available will be limited to effectively achieve the necessary relationship.

Another disadvantage in establishing a licensing arrangement similar to the GLA is the cost – both administratively and politically. It is costing approximately \$400,000 per annum to run the GLA in WA, which is largely collected from special license fees. The only way to avoid this cost of licensing is to go to deregulation. Costs of this scale again make consideration of such a model prohibitive if it is only to serve as a transitional step to deregulation. It was suggested that some of the costs could be off-set, but this will be largely dependent on how much the Government department is willing to take on as in-kind costs.

A question posed during the consultations was whether a combined GLA between WA and SA could be a way in which the costs of administration could be spread between the two states. Given the joint venture that Grain Pool Pty Limited (GPPL) and ABB in Grain Australia is was a concept worth considering. A major limitation to this would be the process of establishing complementary legislation in SA and also the fact that the GLA in WA has been operational for several seasons and therefore most likely to be more advanced than where SA would be prepared to enter the structure.

Another important criteria for the establishment of a licensing arrangement in SA is the development of quite clear guidelines. Some concerns raised were that if the criteria were not clear in intent then they are too easily subject to interpretation, particularly if there is a change in personnel within the authority. It is important that the licensing authority operates very much within its guidelines and issues its discretionary powers with care. It was expressed by others that the legislation can be confusing, which leads to uncertainty amongst the industry and also to a lack of confidence.

Some exporters also commented that although the GLA in WA is functional it is also restrictive on the amount of market development that can be achieved. Certainly the shift to multi-year licenses was also seen as an advantage to assist in market development, but ultimately the requirement is that a potential exporter must have a license in order to accumulate grain. This restriction also is prohibitive to some of the services that might be offered to growers. For instance, there are accumulating businesses that operate in order to service growers, but if a licensing arrangement were implemented then it would prohibit their ability to accumulate on behalf of growers as the GLA in WA has a restriction on accumulation only being permitted if an export license is held.

Therefore to be more adaptable to market development a licensing arrangement would have to have a higher degree of flexibility than the GLA, allow for multi year licenses, issue licenses on a higher percentage of the crop and not restrict licenses to only export. However, one would assume that a more flexible licensing arrangement would be desirable to some exporters, but it would certainly face strong criticism from ABB if it were to be a principle license holder.

Another limitation is the requirement for the principle license holder to demonstrate that market premiums do exist in order for it to not be exposed to market forces. In a report to the GLA, Ron Storey talked about the difficulty in actually being able to make these assessments due to the lack of information available to make a judgement, and that there is unlikely to be any market premium except for a possible advantage in the feed barley market in Japan (Storey, 2005).

Some also passed comment during consultations with the working group that the licensing arrangement was founded on a flawed basis because it is seen to have been implemented

based on a 'political' reason rather than a purely economic basis. Certainly there continues to be a political cost associated with the GLA in WA, which is likely to continue unless further loosening of the regulation occurs.

Finally, if a licensing arrangement were implemented in SA then there would be a requirement to include a sunset clause that is linked to the wheat marketing arrangements, similar to what is in place in WA. Given the uncertainty that still surrounds the future of the current wheat single desk and the likely changes that are muted the implementation of a licensing arrangement now could not be recommended.

In summary, the following broad disadvantages were identified in relation to the introduction of a Grain Licensing Authority similar to WA:

- There is a cost, both politically and administratively
- There is a restriction in terms of only being able to accumulate once you have a license.
- Restricts the opportunity for market development
- Implementation of the operational guidelines is subject to interpretation
- Grower control could be lost – redemption event would be triggered to remove the dual class shareholder structure in ABB.

7.4. Open marketing system (Deregulation)

In total there were nine submissions that were received in support to moving to deregulation for the barley export market in South Australia. Of these, three were received from marketing companies / traders, two were received from groups representing exporters, and four were received from individual growers. In addition, within this section of the report a sub-heading has been included to handle the consideration of licensing as a clear transitional step to deregulation. This was raised by some groups within their submissions and consultations and therefore warrants further discussion separately within this section of the report.

The growers who made submissions to the working group advocating deregulation cited the need for more competition and choice in barley marketing to maximise their potential returns. At least two exporters also explicitly stated within their submission that they

would enter the barley market in SA if it were deregulated, offering a range of services to growers as part of that process.

Another argument in favour of deregulation was made in relation to being able to build new markets through competition. Comments suggested that it is not feasible for one single entity to be able to access all market opportunities. With more exporters coming into the market there will be consolidated relationships where market development will occur. It was stated that supply security is important in establishing the market relationships and development and that no one party has the resources to establish all the necessary relationships to develop those markets.

Advocates for deregulation also commented that with deregulation in SA then it is likely that there will be a movement of grain back towards Outer Harbour. This will be driven by the fact that without the pricing differentials between the states there will be less movement away from SA to Victoria.

Another advantage to traders / exporters with deregulation, which will also have a flow on effect to growers, is through improving marketing risk management. These days the trade is dealing with company to company relationships rather than Government to Government, and therefore a lot of niche markets are now available. Therefore lower tonnages will allow them to reduce the risk that they might have on their grain accumulation. For instance, not having to two-port load is a major advantage for a grain marketer. Having access to being able to export barley will spread their marketing risk by filling separate hulls within a ship with barley, canola or pulse crops. Marketing only one type of grain per shipment is a higher risk strategy for a grain marketing company.

In summary, the following broad advantages were identified in relation to the introduction of an open marketing system (deregulation):

- Increased market choice for growers in terms of who they sell to.
- Greater opportunity for increased returns to growers.
- Does meet the National Reform Agenda guidelines.
- Opportunity for greater market development, particularly niche marketing.

- Clearer market signals through the supply chain, leading to least cost pathways for grain movement.
- More competitive services being offered to growers.

Like those submissions received by the working group in favour of deregulation highlighting a number of disadvantages to the 'single desk', the advocates for the existing marketing arrangements pointed to the issues relating to a deregulated barley export market. These principally were associated with the loss of services they associate with the 'single desk', and also the increased risk associated with 'rogue' traders.

Comments in favour of collective marketing also suggested that in a deregulated environment there are uncertainties about supply and so there is likely to be less rail and infrastructure maintenance and investment in R&D that flow from this. As an example the rail freight rates in Victoria were increased significantly as they found there had not been enough funds directed toward maintenance of their rail infrastructure. Certainly these are important issues to consider with changes to marketing arrangements and these specific items have been given due consideration within section 8 of this report.

A concern was raised that with the entry of large multi-national companies into the market place then there will be a loss of bundled services on offer to growers. Although there probably will be some traders who are straight traders who only enter simply to trade grain, the advantage is that growers will have the choice to select who they wish to trade with. If a grower is not interested in any additional services but a good return on their barley then they may opt to deal with the trader, whilst the grower looking for additional services will seek out the marketer who can provide those services to them.

Experience in the eastern states would suggest that with a deregulated market there will be greater price volatility and risk. This will mean that some growers will have the ability to capitalise whilst others may not be in a position to. Volatility in the market place again emphasises the need for an education program as part of the transition to deregulation.

Advocates for deregulation referred to two of the major issues raised by growers in support of 'single desk' marketing - security of payment and buyer of last of resort. The buyer of last resort is really not an issue from the perspective of those advocating change, as there

will always be a buyer willing to offer a price through pools. In a deregulated market it is likely that there will be multiple pools offered, most likely by ABB, Graincorp and Elders.

It was acknowledged that security of payment is a major issue and it is important. Doing background checks is an advisable process for growers who are concerned about the credit worthiness of a marketer.

In summary, the following broad disadvantages were identified in relation to the introduction of an open marketing system (deregulation):

- Greater exposure to market risk and fluctuations in price for the grower.
- Transition directly from regulated marketing is complex
- Has lower grower acceptance?
- Potential for loss of services provided by ABB
- Grower control could be lost – redemption event would be triggered to remove the dual class shareholder structure in ABB.

The working group believe that based on the information available and through the consultation process undertaken, the most benefit to growers and the broader industry will be generated through deregulation of the bulk export barley market for South Australia. This is reflected in recommendation 1 (refer to section 9 of this report). However, the shift to deregulation does require a transitional step to assist the growers and broader industry in making the adjustment to deregulation.

Transition to an open marketing system (deregulation)

During a number of consultations, the issue of including a clear and phased transition to deregulation was highlighted, particularly in terms of assisting growers during this process. In some cases the arguments for a GLA in South Australia were based on need for such a transition arrangement. A challenge with a transitional arrangement is in justifying the cost in establishing the arrangement, particularly if it is only to remain in existence for two to three years.

The concept of a transition step to deregulation was discussed extensively by the working group. This transition process to deregulation included two main components – some form

of licensing / accreditation process to give growers confidence as they move into a deregulated market, and an extensive education program to ensure that they have adequate understanding of the issues as the changes are implemented.

A timeframe of two to three years was supported by those groups who made submissions advocating such a structure for transition to deregulation, and it was noted is more than what was put in place when the Victorian barley export market deregulated in 2001. In addition, in consultation about the process for barley deregulation in NSW it was noted that the process to deregulation was over a five year period, which was viewed as too long by the NSW grower who provided input to the working group (refer to section 7.5).

Consideration was given to the implementation of a GLA to act as a transitional step to deregulation. As identified in section 7.3, there are a number of major disadvantages that would see this as an unacceptable process for the broader industry. This includes:

- Cost in establishing and administering the authority.
- A degree of marketing risk to the trade in not being guaranteed of license capability.
- Low acceptance amongst traders.
- Difficulty to quantify whether market premiums exist.

Therefore the working group saw that the best solution would be for the transition step to have a clearly defined end date and would be an accreditation process that provided a marketer / trader with a 'license' to bulk export barley from South Australia. During the deliberations about the transition step the issue of a grains industry ombudsman was discussed, something advocated by the SA Division of the Liberal Party in January 2006. However, given an underlying consideration was ensuring that the costs of the transitional arrangement were not excessive it was felt that existing structures already established should be utilised.

ESCOSA currently provides a regulatory role in South Australia in specified areas (i.e. electricity, maritime). ESCOSA is established under the *Essential Services Commission Act 2002 (SA)* has the flexibility to enable it to perform this regulatory role. This is

supported through the Essential Services Commission's defined functions, as described in Part 2, section 5, of the *Essential Services Commission Act 2002 (SA)*:

- (a) *to regulate prices and perform licensing and other functions under relevant industry regulation Acts;*
- (b) *to monitor and enforce compliance with and promote improvement in standards and conditions of service and supply under relevant industry regulation Acts;*
- (c) *to make, monitor the operation of, and review from time to time, codes and rules relating to the conduct or operations of a regulated industry or regulated entities;*
- (d) *to provide and require consumer consultation processes in regulated industries and to assist consumers and others with information and other services;*
- (e) *to advise the Minister on matters relating to the economic regulation of regulated industries, including reliability issues and service standards;*
- (f) *to advise the Minister on any matter referred by the Minister;*
- (g) *to administer this Act;*
- (h) *to perform functions assigned to the Commission under this or any other Act;*
- (i) *in appropriate cases, to prosecute offences against this Act or a relevant industry regulation Act.*

In addition, ESCOSA's objectives are defined under Part 2, section 6 of the *Essential Services Commission Act 2002 (SA)* as:

- (a) *have as its primary objective protection of the long term interests of South Australian consumers with respect to the price, quality and reliability of essential services; and*
- (b) *at the same time, have regard to the need to—*
 - (i) *promote competitive and fair market conduct; and*
 - (ii) *prevent misuse of monopoly or market power; and*

- (iii) facilitate entry into relevant markets; and*
- (iv) promote economic efficiency; and*
- (v) ensure consumers benefit from competition and efficiency; and*
- (vi) facilitate maintenance of the financial viability of regulated industries and the incentive for long term investment; and*
- (vii) promote consistency in regulation with other jurisdictions.*

In addition, to minimise the costs associated with establishing this regulatory role for ESCOSA, it is important to utilise NACMA as part of the accreditation process. Given they already have agreed codes of conduct in place for their members, a stipulation of the accreditation is that a trader / company wishing to obtain a license must be a NACMA member.

The transitional step of accreditation and licensing is reflected in recommendations 2, 3 and 4 (refer to section 9 of this report).

The second component to the transition step to deregulation is an extensive and well funded education program to growers to assist in adapting to a deregulated export market for barley. The co-ordination of the education process is something that the SA Farmers Federation Grains Council should be resourced to provide. Therefore adequate funding of the education program is imperative.

The transitional step of an extensive education program is reflected in recommendation 6.

7.5. Grower reaction to interstate barley marketing changes

The working group was very aware that given the changes that had already taken place in other states, with the introduction of the GLA in Western Australia and deregulation in the eastern states. The observations were made during the consultation phase undertaken by the working group.

In Western Australia it would appear the 'pro-single desk' growers did take a longer time to adjust to the changes that took place, whereas growers who were looking for more

change would argue that the changes were not enough. However, it would appear that growers have largely accepted the changes that have taken place and welcomed the choice that competition has provided them.

Through consultations it was noted that what initiated the change in WA was that Grainpool wanted to restructure and merge with CBH, and this coincided with a review of the legislation. It was further discussed that the establishment of the GLA in WA was primarily to protect the growers, secondly about how the Government's issues around NCP could be addressed, and thirdly about protecting the state's reputation. Unfortunately there appeared to be a lack of understanding about why the legislation was introduced.

Other consultations revealed that growers in Victoria were able to adjust to deregulation as they had a period of forewarning available to adapt. There were some farmers who struggled through the transition whilst others managed quite well, an observation that will probably be made in SA if deregulation occurs and again emphasises the need for well funded training.

Consultations also took into consideration, where appropriate, the changes that recently occurred in NSW with their transition process from regulation to deregulation in barley marketing. Support for the 'single desk' was strongest in the central region of the state, whereas growers in the north and south of the state were more open to change given the increased demand for grain through the growth in feedlots in these regions and also the on-farm storage options being developed.

The changes in NSW were initiated by the bankruptcy of the NSW Grains Board, which had the export 'single desk' rights for barley. The vesting rights in the 'single desk' were transferred to Grainco, who later merged with Graincorp. At the same time the NSW Government paid out the debt incurred by the NSW Grains Board, which was then recouped through the payment of a \$1.50 / tonne grower levy over 5 years.

In the lead-up to the vesting rights ending on the 29th of September 2005, the NSW Farmers Association led a major grower education program focussed on being aware of new traders coming into the market and some of the risks to consider. This was also focussed on a large awareness program about ensuring that growers do the appropriate

level of research on grain trading companies, and not simply take the highest price being offered.

7.6. Impact of barley marketing change on ABB Grain Limited

Another issue that the working group took into consideration during their deliberations was the impact of barley export marketing changes on ABB Grain Limited, and in particular an issue that many growers see as important is their ownership and control through the dual class shareholder structure.

The issue of the dual class shareholder redemption event that is built into the ABB Grain Limited constitution was discussed with ABB during a consultation with the working group. The redemption event is defined under the ABB Grain Limited constitution as meaning “ABB Grain Export ceasing to hold the Single Desk within the meaning of Article 1.7”. To put this into context, article 1.7 of the ABB Grain Limited constitution states:

For the purposes of this Constitution ABB Grain Export will hold the Single Desk if the requirement under legislation in Victoria and South Australia that (subject to certain exceptions under the legislation) a person must not sell or deliver barley to a person other than ABB Grain Export continues and will cease to hold the Single Desk when that requirement ceases to apply in both Victoria and South Australia. (ABB, 2005).

ABB stated during consultations that the introduction of a licensing arrangement in South Australia, similar to the WA GLA would not meet the definition of a ‘single desk’ and therefore would trigger the redemption event referred to above. The basis for this interpretation relates to the wording used in the *Barley Marketing Act 1993 (SA)*, which refers to ABB Grain Export being the only company that can buy barley (with some exceptions), and it has to be assumed that it only refers to SA barley, then it is argued that if someone other than ABB Grain Export can purchase barley for bulk exports then the ‘single desk’ is lost and therefore the redemption event occurs. It should be noted that article 3.5(b) (i) of the ABB Grain Limited constitution does outline the process if the redemption event occurs. This includes:

- The directors must convene and hold a meeting of A-class shareholders within three months, with the A-class shareholders having to consider a resolution that compulsorily redeems all A-class shares.
- A general meeting of ABB Grain Limited must be held immediately after the A-class shareholder meeting.
- If the majority of A-class shareholders vote in favour of the resolution then the general meeting must be held in accordance with article 2.5(b) (ii) and the A-class shares must be redeemed at the conclusion of that general meeting.

Ultimately the decision to redeem the A-class shares will be made by the majority of A-class shareholders.

Another point made by potential exporters advocating change was that even with changes to barley marketing in South Australia the ABB is likely to maintain a natural monopoly within the barley market. This is not simply attributed to the fact that it manages and operates the majority of the storage and handling facilities in South Australia, but due to its history and success in marketing South Australian barley through the 'single desk' then it has a strong presence and reputation amongst the majority of growers within South Australia. This will naturally make it a competitive marketer to any new exporter who enters South Australia because it has grower loyalty that has been established over many decades.

ABB Grain is already demonstrating that the ABB business is diversifying away from what it originally was established to do, which was manage the barley export 'single desk'. In a speech to the ABARE Outlook conference on 1 March 2006, Michael Iwaniw, the Managing Director of ABB Grain Limited, stated "only a quarter of our grain marketing activities relate to the export barley pool" (Iwaniw, 2006). Mr Iwaniw also said in the opening remarks to the speech at the Outlook conference that:

"Today ABB is an integrated agribusiness with diverse investments and activity across the supply chain: from farm inputs, production, storage and handling, logistics, marketing and processing. We may have started life predominantly as a barley exporter, but now ABB markets every other type of grain produced in Australia ... much of it domestically." (Iwaniw, 2006).

and

*"It's likely the SA single desk will be reviewed, even though growers do consider it "their" desk, with ABB (as its legislated operator) having responsibility for gaining maximum benefits to growers who support the pools. Recently the SA Farmers Federation Grains Council held a series of grower information sessions. Shortly it t (sic) will shortly conduct a ballot of SA grain growers to determine their attitude to the single desk. Whatever the poll result, **ABB Grain will continue as a highly competitive business.**" [Emphasis added] (Iwaniw, 2006).*

Recently ABB, Graincorp and CBH, established Wheat Australia a joint venture to export shipments of bulk wheat to Iraq. Based on recent media comments it is considered that ABB Grain Limited would welcome the opportunity to export bulk shipments of wheat from Australia should changes occur to the existing wheat marketing arrangements in Australia.

8. Consideration of Key Issues

During the review of submissions and through the consultation phase the working group developed a list of key issues from the salient points raised (see Appendix D for the full list). The working group then further refined the list into the following issues that were identified of greatest importance when considering changes to barley marketing in South Australia:

- Structure to manage risk
 - Security of payment for growers
 - Concept of the 'buyer of last resort'
 - Marketing opportunities for grain marketers / traders
- Maintenance of grain quality standards
- Maximising returns to growers
 - An efficient and accessible supply chain
 - Minimising the impost of regulation (political and administrative)
- Equitable access to critical grain infrastructure
- Market access and development
 - Supply of accurate and timely market intelligence
- Services to growers
 - Continued investment in research and development (R&D)
 - Identification and development of new markets
 - Availability of finance options, particularly the continuation of pools.
 - Information on varieties and their suitability to the marketplace.
 - Classification of varieties
 - Risk management services.
 - Supply chain management for least cost pathways to market
 - Factual and timely market information.
- Achievement of National Reform Agenda requirements

Each of these factors is considered in more detail within the following sections of this report.

Interestingly, the key issues are similar to a set of key issues raised by a group of growers who made a collective submission to the working group. This group of growers highlighted the following as key issues that they wished to see maintained with the changed marketing arrangements, which in this case they were advocating licensing:

- More competitive cash trading options, and uniform pricing at the silo.
- An independent mechanism to ensure that fair and equal access is provided to all marketers at all times by the storage and handling operator.
- Continued investment in barley R&D and market development.
- Security of payment from reputable marketers, with retention of title remaining with growers until payment is received.
- Buyer of last resort is advocated, although acknowledging that competition should ensure a buyer and price will always be available.

8.1. Structure to manage risk

The issue of risk management is of great importance as changes to barley marketing are contemplated, particularly from the perspective of growers who see two major benefits of the existing arrangements as being the ‘buyer of last resort’ and the security of payment.

Within the submissions made by growers advocating the retention of the ‘single desk’ the often cited benefit of the barley export single desk was the confidence that they had in being paid for grain delivered to the ABB Grain Export Limited, and the sense of security that ABB Grain Export is a ‘buyer of last resort’ for barley that meets ABB specifications. Under Part 4, section 33 of the *Barley Marketing Act 2003 (SA)*, stipulates that ABB is only a buyer of last resort if it meets its standards:

33. (1) Subject to this Act, a person must not sell or deliver barley to a person other than ABB Grain Export Limited.

(2) A person must not transport barley which has been sold or delivered in contravention of subsection (1) or bought in contravention of subsection (4).

(3) Subsections (1) and (2) do not apply to—

(a) barley retained by the grower for use on the farm where it is grown;

(b) barley purchased from ABB Grain Export Limited;

(c) barley sold or delivered for consumption in Australia;

(d) barley which does not meet the standards determined by ABB Grain Export Limited. [Emphasis added].

During the review of submissions and consultations certainly the point that with a more open and deregulated market, where potentially there will be multiple buyers on a given day for both cash and pools, then the competitive pressures will mean that the buyer of last resort issue will not exist. Besides, currently there is actually no buyer of last resort as the 'single desk' manager has the power under the Act to not receive a delivery of barley if it doesn't meet specification.

It is fair to suggest that this confidence in payment is through long-term familiarity with ABB and that many growers have delivered to this marketer for many years. There is certainly a great deal of trust that has been developed between many growers and ABB, which gives growers a sense of satisfaction that they will receive the full payment entitlement against the contract terms.

Under the *Barley Marketing Act 1993 (SA)*, title or ownership in the grain is passed to ABB Grain Export upon delivery to the pool. Under Part 4, section 34 of the Act, the following statement is made:

34. On delivery of barley to ABB Grain Export Limited, unless it is otherwise agreed or the barley does not meet the standards determined by ABB Grain Export Limited—

(a) the property in the barley immediately passes to ABB Grain Export Limited; and

(b) the owner of the barley is to be taken to have sold it to ABB Grain Export Limited at the price for the time applicable.

The only submission that touched on the issue of title retention remaining with the grower was from a group of growers. Their position was that title should stay with the grower until payment had been received. Commercially it is unlikely that a negotiation of this nature could occur on a pool as considerable forward positions are taken by the marketer that they would not be willing to carry this risk. However, within the standard NACMA contracts the provision for title transfer is seen to be something that should be negotiated commercially. In terms of cash sales it is likely that in most cases the title transfer will

occur at the point of delivery rather than payment. As this would be a difficult position for government intervention as it is a commercial relationship then this is something that a grower representative body such as SAFF Grains Council should progress on behalf of growers with the trade. Although retaining title in the grain is not something that will prevent a poorly performing trader from becoming insolvent, it would give growers a better legal position as a secured creditor in order to claim any unpaid contracts.

The issue of security of payment is a difficult area to guarantee, and in fact managing the on-going reputation of the South Australian barley industry globally has potentially greater benefits to the broader industry. However, what it does highlight is the need for a licensing process that includes credit worthiness during the transition step to deregulation. Again, although it won't guarantee any unforeseen issue it will at least provide growers with a degree of confidence as they learn to adapt to a more open marketing arrangement.

In part this is the concern about 'rogue traders' that might damage the reputation of the industry and default on payments to growers. Certainly the two grower proponents for retention of the existing arrangements argued this point against deregulation. It would appear that the 'rogue trader' would appear to be something that was an issue before the original regulation was established. However, these days there is a lot of ability to do some background research on the credit worthiness, and this is what is being proposed within the independent accreditation process to be managed by ESCOSA. In addition, the hesitation to which the majority of growers appear to want to accept deregulation then it is likely that growers will be slow to change and will continue to trade and deal with the companies they know, and therefore trust.

Finally, it is not only the growers who do not want to have 'rogue traders' operating in the marketplace. Many of the known exporters also want to see some security and filtering process so that grower's do trust that they can deal with different companies on a given day as it is in their commercial interests for this to occur.

8.2. Maintenance of grain quality standards

Management of quality standards in barley is an important consideration, particularly in protecting the state's reputation in producing high quality grain in our export markets. It is

often associated with the existing marketing arrangements. However, the quality argument is not a strong position to make in support of a particular level of market regulation. There are really two levels to this argument – ensuring that the right variety is classified, which is controlled by the marketing company and is self regulated, and the second is in relation to quality standards.

Grain standards classification and trade rules are largely facilitated by NACMA and the working group believes this role could be enhanced in the future.

Standards are currently set at a National committee level through a consultation process. The committee responsible, which is the Storage and Bulk Handlers Committee currently, has representation from all major bulk handlers. The standards are gazetted and agreed to at a national level by members of NACMA.

The process therefore in establishing the standard for receivals is ultimately by the market. For instance the pulse standards are set by NACMA, whilst in terms of the wheat standards they adopt the AWB standard and for barley standards from ABB. This could even remain possible in a deregulated barley market. The standards are usually well known for the different grades and exports will be delivered against the agreed standards.

In terms of dispute resolution there is an arbitration process offered through NACMA to the industry, and all arbitrations have been upheld thus far by the courts. If a dispute arose around a quality standard then NACMA will involve an independent tester to support the process. In addition, the Australian Quarantine and Inspection Service (AQIS) also have a role in physical compliance and phytosanitary monitoring at the point of loading for export.

Comments made during the consultation process suggested that the NACMA brand is a lot more prominent in the eastern states due to their deregulated barley market. This is because many South Australian growers would be used to dealing with ABB and AWB, who use their own branded contracts etc. However, in the eastern states where competition is stronger there are more companies operating across multiple jurisdictions and therefore are using NACMA contracts more widely.

It is also worth noting that end-users of grain are looking for increased quality assurance in the grain that they are receiving and so the demand for adoption of these systems will increase (Wurst and Yeatman, 2005). This is certainly the case in a market such as Japan, where the security and quality guarantee are important and managed through strong regulations.

Another area that the industry should consider is in the development of Quality Assurance (QA) programs. QA programs in the grains industry are generally behind schedule and traceability of grain is more complex when compared to other rural industries, in particular the meat and horticultural sectors. It is commented later within this section that Barley Australia is developing a trademark for Australian malt for export, which will be underpinned by a HACCP based QA system. It is structures such as these that need to evolve in the grains industry, not just for malt barley but for feed also.

The consultations revealed that the maintenance of grain quality standards will not be dependent on the existence of full market regulation.

8.3. Maximising returns to growers, as a net farm gate

Changes to the grain industry will always be viewed by growers by the impact that it might have on improving their net returns. Maximising grower net returns is an ultimate aim of any changes undertaken and hence requires comment by the working group.

Some will argue that one of the main strengths of the existing arrangements is that it 'maximises growers returns', which is a legal requirement of the 'single desk' manager. The same people would argue that deregulation will bring about increased price volatility, and that some people will benefit, but not everyone. The counter argument is that through deregulation, or even licensing, more competition and choice will give growers the ability to capitalise on this competitive pressure.

It is difficult to make direct comparisons between states on the barley prices offered, and therefore difficult to determine whether the differences are due to the marketing system or the markets that they have access to. For instance, the Eastern states have a strong domestic demand, which means a higher percentage of their total barley crop is actually

supplied to domestic markets compared to SA which exports approximately 80% of its barley. In comparison to WA they have blue water freight advantages over SA that also have to be taken into account when comparing prices.

What is evident is that there has been increasing amounts of friction, particularly amongst growers, about the unexplained differences that are reported between prices in different states. Naturally if there are unexplained differences then growers will look to see what is different, and for the barley industry it is because we are the only state in Australia that still has a barley 'single desk'.

Costs and benefits are not only limited to the actual price offered for barley, but also the political and administrative impost that marketing regulation also provides to the industry. In addition, a big positive that has been stated about less regulation in the barley market has been about more choice for growers, and also a greater range of market risk management tools.

8.4. Infrastructure access and equity

The issue of fair and equitable access to critical grain infrastructure at the port facilities in South Australia was raised by a number of the third party exporters and a few growers. In each case the concern was in regard to having a process that would ensure that third parties would have equal access to the ABB Grain Limited infrastructure.

It is important to note that at the time of the merger between ABB and Ausbulk Limited in September 2004, an undertaking was made to the Australian Competition and Consumer Commission (ACCC) by the merged entity in relation to access to South Australian bulk terminals for barley traders and traders of grains other than barley (ACCC, 2004). The undertaking to the ACCC was given under section 87B of the *Trade Practices Act 1974* on the 20th of September 2004.

The rationale behind the undertaking is that in theory, if there was deregulation in the barley market then it was viewed that Ausbulk could use its control over the ports in restricting the access to belts at port and therefore giving them an effective monopoly over other entities. Therefore ABB gave a written undertaking that it would not unfairly

discriminate against other traders. ABB is obliged to externally arbitrate on any issue raised, and ACCC can enforce it. The undertaking is restricted to South Australia. There is a sunset of five years on the undertaking from the date of the merger (therefore it sunsets in 2009), and that there is no provision for it to be extended. Section 46 of the *Trade Practices Act* will still apply without the undertaking. The purpose of the undertaking was simply to provide another trader the provision to go through the arbitration, which was built on from Section 46. It should be noted that clause 5.1(c) allows ABB Grain, as the merged entity, to seek a review of the undertaking with the Commission if 'the single desk in respect of barley is removed, partially removed or otherwise altered'.

Given the provision to review the undertaking in the event that the 'single desk' was removed, and also that there is no guarantee that it will be extended its current expiry date in 2009. Therefore the working group considered the regulatory framework that could assist in managing the equal access to critical grain infrastructure.

The working group considered during its consultations the potential issue of grain ports in SA and how the interconnecting between up-country sites and ports is accessed equally. The question to ask is whether the infrastructure is an essential service? What is a fair charge to the people to maintain the infrastructure and access by third parties to prevent unnecessary development of new infrastructure because of a lack of access?

In consideration of up-country sites the working group viewed that regulation at these locations is less important given they will naturally be placed under pressure through competition from other service providers such as AWB Grainflow and on-farm storage. This was supported by comments made during the consultation with the NCC. It was noted that one of the other roles of NCC is to look after Section 3A of the *Trade Practices Act*. Ideally the parties would organise access to infrastructure commercially; alternatively it would go through ACCC arbitration. In terms of grain infrastructure it was viewed by the NCC that up-country storage and handling facilities would not be seen as a natural monopoly as there is already some competition, although in the case of the ports it is a different scenario. It was noted that access to port infrastructure can either be looked at as a state managed process or allow the commercial entities to rely on the section 3A provision. It was noted that SA is very well serviced with up-country storage and handling

facilities which will limit the amount of competing facilities that might be built up-country, provided that access is made available to third parties.

Therefore the focus for critical infrastructure access in a deregulated market is on ensuring that third parties have equal access to the ports and belts at the major export ports within South Australia. Consultations revealed that the ESCOSA already performs a role in regulating access and pricing for the port. However, the working group believes this will need to be expanded with deregulation in the barley industry to include regulation of the grain loading facilities, and possibly storage at port, in terms of price and access to third parties.

Given the role that ESCOSA already has in regulating access and pricing at port, and also its regulatory role in the electricity market whereby an independent process is used to monitor the infrastructure, then this role should be further expanded to include belt and storage access and pricing regulation at the port terminals. The working group explored this with ESCOSA and felt that the capability is there to support this role in a deregulated market. It is important to note that this grain infrastructure regulatory role should extend beyond the transitional step proposed for grain licensing as this access and pricing issue could continue well beyond full deregulation takes effect. In the next stage of deliberations over this issue the government, ESCOSA and industry need to discuss the critical elements around costs, regulatory framework, legislative amendment (if required) and also a review timeframe for the regulation. ESCOSA also plays a role in intra-state rail regulation, which covers the rail networks on the Eyre Peninsula, Mid-North and Murray Mallee.

Another grain infrastructure issue that was raised during consultations was the management of the shipping stem. The shipping stem is the term used to describe the port by port breakdown of what ships are due at a given time. The issues surrounding the shipping stem are related to not having a clear and transparent nomination of whether vessels are either pre or post ABB vessels, which makes it unclear which nomination a third party holds and therefore what order the vessel is due. Another issue is the inconsistencies between exporters in the timeframe for notifying Flinders Ports (daily versus weekly).

It is important to have a clear and transparent booking system, where the owner of the ship loader can not disadvantage the other party simply because they own the infrastructure. There are probably two ways in which this can be managed. The first is to become more transparent in the nomination of vessels by either ESCOSA managing the stem independently, or that ABB posts the shipping stem on a privately accessed website so that other parties can log on and identify the nomination sequence. This might provide a more open process for those involved, and is to an extent dependent on the ports. For instance, with just in time storage at Outer Harbour the lack of transparency in the shipping stem makes it more difficult. In a deregulated market the just in-time storage will make this transparency even more critical.

Finally, another factor to consider in relation to key infrastructure in a deregulated barley market is the flow of grain across the state. In particular, a few groups who consulted with the working group indicated that if the barley market were deregulated in South Australia then it is likely that grain flows will start to be transported more on least cost pathways, potentially seeing more grain being drawn through the Outer Harbour. This will be to the advantage of ABB Storage & Handling and the broader industry who have invested significant funds into the development of the Outer Harbour grain precinct.

8.5. Market access and development

Access to reliable and accurate market intelligence information is critical to the future of the grains industry and ensuring market access and development.

During consultations with marketers / traders it was commented that access to accurate information is an issue across the country, and even the barley export figures in Victoria are embargoed so that open debate can't be held on the direction of the industry. This has an impact on the availability of true figures. It was commented that government agencies such as PIRSA and ABARE are only ever going to be able to use estimates on a best guess approach in their forecasting. In the US there is a much more open information supply with the USDA having the latest figures available on a weekly basis. Information is important and so the storage and handling companies have a strong advantage as they are aware of what the current grain stocks are at any given time within their system.

This sort of market intelligence information is also important in terms of the market signals that come back to growers and plant breeders about varieties. Accurate information and market signals are required in order to make the right decisions agronomically and from a variety perspective.

This theme also extends into market innovation. Historically the grain traders have been referred to as simply marginal traders with no interest in market development. Certainly an argument regarding barley marketing can be run on both sides of the debate in terms of its ability to allow for market innovation. Therefore there is no simple structure that can handle this issue. But given the concept that no one marketer / trader has the ability to supply all markets for South Australian barley means that new entrants into the export market can potentially capitalise on opportunities.

In the work of Ron Storey analysing the presence of market premiums through the operation of the principle license under the GLA, he commented:

The problem, and reason behind the polarization, is that each party believes that they possess "the truth". While part of the difference might be explained by different ideological positions (regulation vs deregulation; orderly marketing vs free markets etc), the reality is that half-truths and misinterpretations abound, and there is little commitment to a rigorous, fact-based process which would enlighten debate for a better performing industry. (Incidentally, this situation is not only relevant to WA. The entire Australian grain industry, evolving from over 60 years of regulation, suffers this same constraint, whereby clear, visible information and feedback to producers on what is happening in their industry is considerably filtered. In large part, this "stickiness" in the information pipeline occurs because of the emergence of strong, commercial grain companies which have retained responsibilities and custodianship of statutory roles, including information control which they routinely classify as "commercial-in-confidence").

The tragedy of this position is that the real losers are producers. Without a fact-based process to organize and plan their businesses and their industry, growers run the risk of either losing some of the benefits currently available (because the benefits are unable to be independently "proved"), or being denied the ability to

choose new paths, prepare for the future, and capture innovation in their businesses.

This report suffers therefore from the same disability as many of its predecessors – a lack of empirical data upon which to base assessments. [Emphasis added]
(Storey, 2005).

The extract from Ron Storey's report sums up the situation in relation to a lack of clear information back through the industry. It also emphasises that this issue is not limited to South Australia, and is something of great importance to the whole industry. The comments within Ron Storey's report are also supported by comments made by others who made representation to the working group. This issue was identified as poor quality market signals coming back through the supply chain to growers, and that the service has declined since the integrated model of a 'single desk' has evolved.

This is an area of market failure that has in part been created by the regulated marketing environment that currently exists. It is certainly imperative that this issue is resolved for the industry as the future development and strategic direction developed by government and industry will be dependent on having this sort of intelligence. It is also important to help growers understand the market dynamics that are at play.

Through consultations with Single Vision Grains Australia (SVGA), the working group discussed elements to the wheat marketing report that they released in June 2006 (SVGA, 2006). Part of this consultation focussed on the Australian Grain Alliance proposal, which seems to be a group that should cover more than wheat (i.e. all grains). During the consultations that SVGA held in the development of its report, the issue of emerging markets was important for the industry as it moves forward (SVGA, 2006). A lot of the matters covered by this working group might be something that can be tangibly included under the Australian Grain Alliance structure. Certainly a model of this nature is worth progressing by government and industry on a broader scale as much of it extrapolates into other grain commodities. It is imperative that the government plays an active role in this because it is in the commercial interests of storage and handling companies to disclose as little information as possible.

8.6. Services to growers

The delivery of services to South Australian growers is an important consideration in any changes that will take place in barley marketing. In the context of the GLA, Storey (2005) suggested that some 'single desk' managers could reduce or withdraw from a range of "industry services" which are paid for by pool growers if there is an increase in the level of exports outside the pools. Therefore it is important to consider how these services can continue in a more competitive market. A number of those identified through the process of deliberation of submissions and consultations by the working group included:

- Continued investment in research and development (R&D).
- Identification and development of new markets.
- Availability of finance options, particularly the continuation of pools.
- Information on varieties and their suitability to the marketplace.
- Classification of varieties.
- Risk management services.
- Supply chain management for least cost pathways to market.
- Factual and timely market information.

The grower services listed above are identified by the working group as being of highest importance in any changes that might take place. This is an area that requires further discussion between the government and SAFF Grains Council in the delivery of the services in the future. It might be of relevance to not only consider these services for barley alone, but also in other commodities such as canola, pulses and even wheat where market failure may be occurring. The working group has made some suggestions under each of the sub-headings within this section for barley, but stress that these need to be discussed further at both a state and national level.

Within the context of barley, the focus of this report, it is suggested in relation to a number of grower services that there should be an increasingly important role that Barley Australia should perform on behalf of the industry. Barley Australia is an apolitical organisation that was formed in late 2004, with its genesis being from the old malt industry committee. Currently it has one part-time Chairman and a full-time Executive Manager. There are seven members of Barley Australia who financially support its existence, which includes Grain Pool Pty Limited, ABB Grain Limited, Graincorp, and all four Australian maltsters

(Joe White, Kieren, Barrett Burston and IMC). Barley Australia's mission statement, as provided on its website, states:

"Barley Australia is an independent, non profit industry organisation established to enhance communication and co-ordination between industry and customers, and promote the competitive appeal of Australian barley through national accreditation and quality assurance."

If there is to be an on-going and larger role for Barley Australia in a deregulated market in the future then it will probably need to become self funded and meet the market need of being an information portal for the barley industry in Australia.

Continued investment in R&D

Investment in R&D for the grains industry is an important element to ensuring that the South Australian grains industry remains sustainable and profitable into the future. Investments in the areas of on-farm practices and new varieties has been important in ensuring that the grains industry continues to maintain a positive balance of trade for the majority of growers.

Changes in marketing structures should not have a negative impact on this investment in the future. Australian grain producers are already strong investors in their own future through their contributions to R&D into the grains industry. This is principally through the levy investments made into both the Grains Research & Development Corporation (GRDC) and also the South Australian Grains Industry Trust Fund (SAGIT).

The current investments made by South Australian grain growers into R&D are presented within Table 3.

Table 3. Calculations of the annual South Australian grower contributions to R&D levies based on a 5-year average between 2001-2002 and 2005-2006.

	South Australian grower R&D levies (5-year average)	
	All grains	Barley only
<i>SA Tonnages</i> ^a	<i>6,648,700 tonnes</i>	<i>2,200,400 tonnes</i>
SAGIT (16 cents / tonne)	\$1,063,792	\$352,064
GRDC (0.99% of net farm gate value)	\$11,669,669 ^b	\$3,186,961 ^c
Total (per annum)	\$12,733,461	\$3,539,025

^a Based on the 5-year average production figures from Fulwood (2006). Levy contribution calculated at the current SAGIT levy of 16 cents / tonne.

^b Calculated based on the 5-year average figures from GRDC financial statements (actuals), calculated back to a SA contribution based on SA producing approximately 18% of the countries grain production, taken from ABARE (2005).

^c Calculated based on the 5-year averages from the DAFF Levy Revenue Service figures for barley, calculated back to an SA contribution based on SA producing approximately 30% of the countries barley production, taken from ABARE (2005).

Therefore the total investment from South Australian growers into grains industry research and development, paid directly into GRDC and SAGIT levies, is in excess of \$12 million on average. It is important to note that the grower contributions to R&D levies also attract some degree of matching funding. In the case of GRDC, the Federal Government matches the grower levy investment up to a maximum 0.5% of the average gross value of grains production, provided it doesn't exceed the grower levies (GRDC, 2006). In addition, both SAGIT and GRDC attempt to limit the level of duplication through attracting investment from other industry parties, such as ABB, and through opportunities with ARC funded projects. The research investment of both GRDC and SAGIT would be considered 'common interest' investment, where they target perceived market failure to improve the production efficiency, profitability and sustainability for the grains industry in Australia, and specifically South Australia for SAGIT.

Co-ordinated management of grain industry R&D is important in order to avoid unnecessary duplication of research. For example, it was noted during a consultation with Barley Australia that it is currently facilitating an R&D program which involves any new varieties that come through will be required to go through a pilot brewing test for two years. The funding of this program is through a combination of GRDC and inputs from other private companies, with the program being overseen by a 'brewing committee'.

The direct financial and 'in-kind' investments made by companies like ABB Grain Limited toward R&D are important in supporting the industry and are generally investments of a more direct commercial benefit than research funded by GRDC and SAGIT. Within the 2003-2004 pool performance report, ABB reported their R&D investments:

- Malting Barley Quality Improvement Program (MBQIP) - \$225,000 per annum (on average) + \$40,000 biennially.
- Cooperative Research Centre for Molecular Plant Breeding (CRCMPB) - \$250,000 per annum for 3 years.
- In-house R&D – Shochu - \$52,000 per annum (ABB, 2005).

The decision of further investment into R&D by ABB without the existing marketing arrangements in place is one that will ultimately be made by the ABB directors. However, it is expected that companies like ABB Grain Limited will continue to play an important role in future grains industry research, particularly in developing varieties to meet their market requirements and also in closed loop funding arrangements. An example of closed looped research is where ABB worked with other parties to commercialise two varieties now known as Maritime and Capstan, both of which ABB Grain Limited received the commercial rights (ABB, 2005).

As a "multi-faceted Australian agribusiness" (ABB, 2005) it is highly likely that ABB Grain Limited will continue to invest in R&D for the grains industry.

To assist in the co-ordination of research priorities for barley marketing it is possible that Barley Australia could play a role similar to that of Pulse Australia. Pulse Australia facilitates a 'reference group' which involves growers, traders, customers and breeders whereby feedback is provided to give guidance on the direction of research. This is an important process for providing accurate market signals back to the plant breeders. This is not something that necessarily is limited to Barley Australia co-ordinating, but could be facilitated in the correct manner with Barley Australia liaising with the likes of GRDC, the Barley Breeding Program and relevant barley marketers.

Identification and Development of new markets

The continued development of new markets for South Australian barley is an important issue for changes that occur with barley marketing.

During a number of consultations with groups who made submissions and others with specialist skills that were consulted, it was commented that it is difficult for one marketer to capitalise on all market opportunities that might be available for barley. The opportunity is available for new marketers to enter the market and develop alternative and niche avenues for South Australian barley in the global market. However, in this expansion it is important that agreed quality standards are maintained, and that South Australia's reputation as a good producer of quality barley is protected.

Consultations with Barley Australia revealed that it is currently leading a project to develop an industry trademark, particularly for Australian malt produced for the export market. A major challenge is to ensure that the trademark is underpinned by a HACCP based QA system across the supply chain. This is certainly an important project for generic branding of Australian malt overseas, and is similar to work that has been undertaken in other Australian industries that are deregulated, for example the Singapore export brand for Australian pork – AIRPORK.

Services of this nature need to be encouraged and expanded under an umbrella organisation such as Barley Australia. If the malting trademark is successful then attempts should be made at introducing a similar program for feed barley destined for the overseas market.

The development of niche markets for the South Australian barley industry is another positive that could eventuate from more open access to the export market. It was commented during consultations that no single marketing organisation has the capacity to assess and exploit all available marketing opportunities on behalf of the industry, nor do they have the capability to gather all the market intelligence required. The counter argument was also put that even with deregulation of the barley export market in Victoria; one of the arguments at the time was that it would deliver more niche marketing opportunities that effectively have never eventuated. What has been suggested is that

deregulation has only led to further expansion of bulk exports of barley as a commodity into existing Australian markets.

However, it is fair to suggest that market innovation has not been proven to occur through the existence of the barley 'single desk'. Niche market expansion will always struggle as the current industry and supporting infrastructure is geared toward bulk commodity shipments (i.e. large centralised storage facility, limited value adding and processing facilities, move toward deep sea export terminals).

In the State Government's discussion paper on growing the state's grains industry, it identifies strategic goals to provide maximum value to the grain produced in South Australia before it is exported (PIRSA, 2005). Therefore a reduction in the level of marketing regulation will hopefully lead to an increase in marketing opportunities being exploited. The success of this will be dependent in part on the relationships developed between the industry and state government in achieving these goals.

Availability of finance options, particularly the continuation of pools

Having a variety and range of financing options is important to growers in order to manage cash flow and taxation requirements. Many of the finance options being sought by growers include a range of pooling options as well as cash pricing alternatives.

Often the argument is made that without the 'single desk' there will be no pools on offer. However, this argument is not supported by the various options now available to growers in the Eastern states that operate in a deregulated market or WA growers who are operating with the GLA.

For instance, it is highly likely that with more competition within the barley export market there will not only be ABB Grain Limited that offers pools to growers, but other marketers who will offer similar services to growers. During consultations it was commented that pools do not disappear with deregulation, but actually more options are made available. In Victoria this is certainly the case, where growers are presented with pools being offered by ABB Grain, Graincorp, Elders and Emerald. It is also important to note that two grain

marketing companies indicated in their submissions that they would offer barley pools if provided the opportunity to participate in the bulk export market out of South Australia.

In addition, it is likely that there will be more cash prices offered.

Observations made in WA, and even what has been commented by the CBH group, is that with the introduction of the GLA they have had to 'sharpen their pencil' and offer more services to growers in order to compete.

What is likely within a deregulated market is more price volatility, and so it is important that growers become more familiar with marketing their grain and adopting improved risk management practices.

Information on varieties and their suitability to the marketplace

This is an area that is experiencing some degree of market failure at the moment given that the existing marketing arrangements for barley are limited to South Australia and that classification of barley is something that needs to be assessed more broadly.

It is imperative to have an independent system for all parties to accept and utilise in the classification of barley varieties. Ultimately the role is probably one that Barley Australia could adopt. This will require further consultation between the government and industry to establish the necessary framework under the proposed MOU to deliver these services.

During consultations it was noted that one of the charters within Barley Australia was communication, and in particular market information to maltsters and integrating this with breeding programs. With the establishment of Barley Breeding Australia there is a good opportunity for Barley Australia to work with this body on variety classification, not just for malt but also including feed barley varieties.

Classification of varieties

Correct classification of varieties is extremely important in terms of ensuring that the qualities of a variety can meet the demands of the customer, and that growers and plant

breeders are being given the correct signals for the development of new varieties that can meet the market demand. The working group identified this as an area of concern. Certainly the national approach being adopted by GRDC in its funding of variety research through the Barley Breeding Program is important for generating these signals.

It was also identified through consultation that Barley Australia currently has as part of its charter the role of varietal classification and accreditation. This is particularly about ensuring that varieties are suitable for the target market and not just offering something that only offers agronomic qualities. With changes in export barley marketing it is important that this service is further developed and maintained.

Marketing companies also have a role to play here, similar to the role that ABB Grain Limited has played in the past. Certainly the work in establishing the Flagship variety has a great deal of potential for the South Australian barley market. However, with a more competitive market there is no reason that this should be limited to ABB performing this role. Other marketers described through their consultations their approach to developing new markets, where small tonnages are shipped in bags, building up the levels and undertaking testing in the marketplace until the point in time when larger bulk shipments can occur. This service is important to the industry and should be facilitated in a deregulated market. A centralised service, however, through an organisation like Barley Australia is important to ensure that some level of independence is maintained in the classification process.

Risk management services

With greater competition in the barley export market it will be important for growers to become more aware of risk management strategies. Under the current marketing arrangements the grower who delivers their barley to an ABB pool is in effect handing over the management to ABB, whilst the risk still resides with them. One available tool is ASX Grain Futures, which is a risk management tool or service offered to industry (growers, traders and consumers of grain). The feed barley market in NSW and Victoria in the 2005 / 2006 harvest had a great deal of volatility, which saw a large drop in the barley price in the middle of harvest. ASX grain future position allows the grower to have the protection against this volatility.

ASX Grain Futures currently takes some deliveries for canola at Port Adelaide, but for feed barley it is all currently in Victoria and NSW. Originally when feed barley was offered it was only in Victoria. This changed when vesting rights in the NSW Grain Board lapsed in 2005 and the barley market deregulated, at which point the ASX extended its feed barley contracts offered in Victoria to include NSW.

In terms of the commodity breakdown, feed barley is 21% of ASX Grain Futures business and is growing. Price transparency does exist and anyone can view the current prices on the ASX website. Users simply need to subtract the NACMA freight rate from the price, which is on a geographical price, to relate it back to real terms.

With deregulation, ASX has indicated it is highly likely that ASX will offer barley contracts deliverable to Port Adelaide and some other SA ports. Ultimately this decision would be made by ASX based on the likely liquidity in the market. In addition, there are also a number of consultants and companies that provide professional services in the area of marketing and risk management. Services such as these are important for growers as they increasingly have to become more attune to the business operations of the farming enterprises.

Finally, as barley marketing arrangements in South Australia move toward deregulation then to assist in the transition an education program that incorporates risk management strategies should be developed and offered to growers. Many growers would already be familiar with such strategies through their marketing of pulse and canola crops, for instance, which are deregulated markets, but this does not negate the need for further education in this area.

Supply chain management for least cost pathways to market

The issue of effective supply chain management to ensure a least cost pathway to market is imperative. During consultations with industry it was commented that it is difficult to compare South Australia and Victoria in terms of supply chains, and that South Australia should be treated in isolation.

South Australia can be separated into three distinct structures – the Eyre Peninsula, which has a narrow gauge rail line and virtually no domestic grain market; Yorke Peninsula, which has no rail and a small domestic market and finally the eastern part of the state, which has a standard gauge rail line and a larger domestic market for grain. There is great flexibility in South Australia with three panamax capability ports in Port Lincoln, Giles and Adelaide.

Comments made during consultation in support of the current marketing arrangements focussed on the failure of the rail system in Victoria, which had been operating at a level that could not retain maintenance on the line and that this was attributed to the deregulated market. It is important to note that ‘natural’ transport systems are very important in South Australia also, and that the rail systems are also struggling financially. This is supported by comments made at a round of grower meetings on Eyre Peninsula in March 2006 highlighting the need for growers to support a project to re-invest into their rail line.

In response to a grower question at Wudinna, Wayne Jaensch from the Australian Rail Group stated:

“The level of return (was) insufficient to put funds towards maintenance of the railway. With the proposed funding ARG can continue with rail economics. In the future it is hoped that additional payments will not be required from growers.”

[Emphasis added] (ERDB, 2006a).

It was emphasised during consultations that the rail infrastructure is extremely critical to the future of the bulk grain export industry, and without an effective rail line there will be a large impact on the grains industry.

In response to a grower meeting at Cummins, Wayne Jaensch from the Australian Rail Group stated:

The \$2 million from the growers is part of the \$40 million package. ARG has already committed \$7million and if the \$2 million from growers is available [not a blackmail issue as mentioned earlier by growers], it means that the other money committed by ARG for 4 years will be extended in lieu of campaign style. The rail will be sustained as long as the tonnes remain the same or increase the

rail will continue. The erosion of the tonnes would create the biggest impact on the sustainability of the rail. [Emphasis added] (ERDB, 2006b).

What will be critical with changes to marketing arrangements for barley in South Australia is a structure that is established to ensure that rail negotiations are approached in a co-ordinated manner. Negotiations with road transporters are considered to be simpler as there is more competition in the service delivery, whereas rail negotiations involve only one rail operator. The structure that is established needs to focus on ensuring that cost effective supply chains are maintained, which has been a problem in NSW and Victoria.

In terms of road freight, export rates are already set each year by NACMA. The role of including rail freight rates should be extended to be included within NACMA's mandate. Therefore what is proposed is the government establishing through the MOU a rail negotiation committee that can work on ensuring a transparent long-term rail contract continuing so that the investments and maintenance of this infrastructure is upheld. Such a structure should involve grower representation through SAFF Grains Council, involvement of ABB who is the major storage and handler, and finally NACMA who can represent the interests of other traders. Agreed rates would then become NACMA rates for South Australian rail. Access to relevant information, such as accurate forecasts on the volume of grain that is likely to be transported on the rail system will be important in establishing the long-term rail contracts. Rail is important as without it some ports will become obsolete.

Factual and timely market information

As discussed within section 8.5 of this report, market information and true market signals are needed in order for growers to adopt practices and varieties that will ensure they meet their market specifications. The view of having access to accurate market information was also raised by a number of traders / marketers who had consultations with the working group.

It is important that the government and industry work together to progress this issue at a national level in order to improve the quality of the market signals coming back through the industry, as identified within section 8.5 of the report.

8.7. Achievement of NCP requirements

The Council of Australian Governments (COAG) at their meeting on the 10th of February 2006 committed to a National Reform Agenda (COAG, 2006a), which was reaffirmed at the COAG meeting on July 14 (COAG, 2006c). At the COAG meeting held on February 10 the following decisions were recorded in relation to competition reform:

“Legislation Review

Decision 1.1

COAG agreed that:

- (a) all jurisdictions will recommit to the principles contained in the Competition Principles Agreement; and*

Decision 1.2

Each jurisdiction will:

- (a) continue and strengthen gate-keeping arrangements established in the National Competition Policy (NCP) arrangements to prevent the introduction of unwarranted competition restrictions in new and amended legislation and regulations; and*
- (b) complete outstanding priority legislation reviews from the current NCP Legislation Review Program in accordance with the NCP public benefit test.” [emphasis added] (Source: COAG, 2006a).*

Contained within the report supporting the February 2006 communiqué it was stated that:

Some jurisdictions argued that a commitment to complete outstanding legislation reviews should be dependent on the availability of competition payments or be confined to those reviews for which penalties are applied in the National Competition Council 2005 assessment. [Emphasis added] (Source: COAG, 2006b).

The decisions made at recent COAG meetings in 2006 were also supported at the recently formed Council for the Australian Federation. This new Council, which held its inaugural meeting in Melbourne on the 13th of October 2006, acknowledged the importance of a new National Reform Agenda in positioning Australia “as a skilled, healthy, educated and prosperous society” (Council for the Australian Federation, 2006).

The existing *Barley Marketing Act 1993* is one of the pieces of outstanding legislation that is considered to not have achieved its requirements against the CPA clause 5 obligations, with NCC stating that in order to meet the outstanding obligations the state government must implement the recommendations contained within the 2003 assessment (NCC, 2005). Although not explicitly stating whether the completion of the Round Recommendations would achieve the requirement, the NCC did state that two matters considered critical to a successful outcome included:

- The licensing authority would issue grain export licenses unless it was satisfied that by doing so would reduce any price premiums, with the onus being on the principle license holder to demonstrate the existence and sensitivity of premiums; and
- That any remaining restrictions should be removed once the Commonwealth Government removes its remaining restrictions on the export of wheat, serving to underline the end-point of deregulation is a fully competitive market for Australian grain (NCC, 2003).

During the course of the working group's discussions two separate consultations were held to specifically consider the issues relating to the achievement of the National Competition Policy requirements. This included discussions with representatives responsible for the South Australian Government's reform program within the Department of Premier and Cabinet, and also with a representative of the National Competition Council.

During these consultations it was confirmed that the South Australian Premier has made a strong commitment to address the February 2006 COAG agreement through the state reform agenda. The issue of leverage being applied by the Federal Government was discussed in the context of completing the outstanding NCP obligations, and it is felt that there will be some form of funding attached, however it is unclear what this might be at the time of writing the report and will be dependent on the health of the Australian economy and how it is reflected in the International economy. It was suggested during the consultations that it is important for South Australia to address any unfinished obligations under NCP, with the *Barley Marketing Act 1993* being one of the major reforms that needs to take place, so that no deductions might be applied in any future incentive mechanism.

The actual structure for payments might come through negotiation with the Federal Government of funding toward the regulation changes could be presented as part of a

proposal to COAG. Such a funding mechanism has been suggested within the communiqués coming from COAG this year (COAG, 2006a; 2006c). This is something the Government should progress with the NCC and COAG if the recommendations of this report are accepted by Cabinet. The proposal could be structured in such a fashion that the public benefit test criteria are listed and assessed how these match against the proposed model contained within this report.

Given the experiences of other state jurisdictions in their ability to achieve NCP reform through amendments to state grain marketing monopolies, the working group considered these as a basis for which the new model could aim to achieve the reform requirements of South Australia. Western Australia achieved their NCP requirements following the introduction of the GLA through the *Grain Marketing Act 2002 (WA)*. In contrast, Victoria, NSW and Queensland achieved their requirements through deregulation of the respective markets.

Based on these observations, and the State Governments' commitment to completing their National Reform Agenda requirements, the working group believes that the only models able to achieve these requirements is some form of licensing or ultimately deregulation of the barley export market. Certainly during the consultation with the NCC it was indicated that since the GLA in Western Australia is considered to be NCP compliant then it is possible for this model to be considered for adaptation in South Australia, however, it should be stressed that the assessment on its ability to meet South Australia's obligations under the Reform Agenda are not guaranteed and would only occur upon its introduction. An unknown with these assessments is that a model, in particular one relating to licensing, can be put forward and accepted as legislation but still not be deemed to achieve the CPA requirements. This is a situation that neither the industry nor Government would want to find themselves in and therefore was a consideration when determining the preferred structure.

8.8. Taking account of the Cole Inquiry

In November 2005, Mr Terence Cole QC was appointed as the commissioner to head an inquiry and report on the involvement and actions of three Australian companies mentioned in the independent inquiry committee report that investigated the United

Nations Oil-for-Food program (the report was entitled “Manipulation of the Oil-for-Food Programme by the Iraqi Regime”), and whether any Australian laws were breached through the actions of these companies.

Of interest to the grains industry was that AWB Limited was one of the three companies who were named within the United Nations report. AWB Limited, and prior to that the Australian Wheat Board, had supplied nearly 12 million tonnes of wheat through the Oil-for-Food program, which was undertaken over nearly seven years. The terms of reference for the inquiry were later amended in June 2006 to include BHP Limited and a company called Tigris Petroleum and their involvement in a shipment of wheat to Iraq in the 1990s.

Commissioner Cole formally submitted his report to the Governor-General of Australia on the 24th of November 2006, which was later released by the Federal Government on Monday, the 28th of November. Apart from a number of comments and recommendations about the culture and operations of AWB, of interest to this working group was the fifth recommendation made by the Commissioner in his report. Within the report, the Commissioner commented that whilst AWB continues to be responsible for the export of wheat from Australia then strong regulation is required (Cole, 2006). In particular, the fifth recommendation states:

“I recommend that there be a review of the powers, functions and responsibilities of the body charged with controlling and monitoring any Australian monopoly wheat exporter. A strong and vigorous monitor is required to ensure that proper standards of commercial conduct are adhered to.” (Cole, 2006).

Following the receipt of the report, the Hon John Howard, Prime Minister of Australia, released the following media statement:

“The report of the Cole inquiry has clear implications for the operation of the single desk system for Australian wheat exports and in particular the role of AWB Limited, AWB International and the Wheat Export Authority in relation to wheat marketing.

Now that the report has been received, the Government will give urgent consideration to the future of marketing operations for the export of Australian wheat. It will announce its proposals for the way forward shortly.

In formulating its response, the Government's dominant concern will be the interests of Australian wheat growers." (Howard, 2006).

At the time of the working group reporting the Federal Government was in the process of completing a review into the wheat marketing arrangements. Although it is unclear what the changes will ultimately be for wheat marketing it is clear in the statements by the Government and industry that changes will have to take place.

Although the arrangements in place for wheat marketing are separate from those for barley it is important to consider that changes that take place in wheat marketing could have an implication on whether the existing barley arrangements can be sustained, or even on the recommendations for change made by this working group. The *Grain Marketing Act 2002 (WA)*, which establishes the GLA in Western Australia, for instance, includes a sunset clause that would be triggered in the event that wheat marketing was deregulated. This sunset clause was inserted in that Act in order for Western Australia to meet its NCP obligations in relation to barley marketing. Therefore, it was important that the working group recommended a structure which will ultimately be acceptable once changes to wheat marketing at a national level are known and enacted. If changes occurred to the wheat single desk, therefore allowing ABB to participate in that market, it would make the retention of the barley 'single desk' in South Australia even less defensible.

9. Summary and Recommendations

It is quite evident based on the material available to the working group that changes from the existing marketing arrangements must be implemented for the barley industry in South Australia. Given that the majority of the reviews performed in the past have not determined any net benefit of retaining the 'single desk' it is difficult to base the decision to support existing arrangements on an economic basis.

Certainly independent reviews conducted by the Productivity Commission (Productivity Commission, 2000) and the National Competition Council have found little or no benefit consequent upon a 'single desk' marketing arrangement. In addition, there was no compelling argument presented in any of the submissions or consultations that couldn't easily be challenged by a counter view that would support retention of the existing marketing arrangements. Likewise there was no compelling argument that would justify the introduction of a GLA ahead of deregulation except as a transition step to deregulation, which will come at a cost to the industry. There is evidence of greater returns from the arrangements in WA and Victoria, however, care needs to be exercised in making comparisons of returns between states.

Finally, when considering the commitments to National Reform and the likelihood that significant change will occur with wheat marketing the argument for retention of the existing barley marketing arrangements is not feasible. The best long-term outcome for the industry is to implement deregulation. Other marketing models, such as a GLA, are considered to be costly and short-term.

In conclusion, the working group has recommended that in the interests of growers and the broader industry that the barley marketing arrangements that operated in South Australia should be deregulated. However, this should only occur following a clear and transparent transition step that involves a license arrangement based on marketer accreditation performed by an independent regulator. The working group recommends that this function of accreditation be performed by ESCOSA for a period of three years, whilst also performing a role on regulating the access to critical grain infrastructure at port.

Grower education on the changes will also be important and so the government and SAFF Grains Council should work together on the delivery of a well funded and extensive package to growers to assist them in adjusting to the changed arrangements. Below are the recommendations from the working group with an accompanying explanation.

Recommendation 1:

That the bulk barley export market in South Australia be deregulated following a three-year transition period of export licensing for companies participating in the South Australian barley export industry.

Based on the evidence presented to the working group, and the information contained within reports available to date on grain marketing and the experiences of other states, the working group is advocating the removal of the barley export 'single desk' in its current form. Given that South Australia is the only state that has not changed its barley marketing arrangements so that more competition is introduced it is important for both the industry and state Government to make these changes as it would allow South Australia to achieve its commitment to the National Reform Agenda, and also ultimately provide benefits to the industry.

One of the first steps considered in coming up with the recommendation was to look at what would meet the criteria for barley marketing reform under the National Reform Agenda. Based on the information provided in section 8.7 of this report, and taking into consideration the findings of the NCC's 2005 assessment report (NCC 2005), it is clear that the industry and Government can meet its Reform Agenda obligations through the move to deregulation.

However, the grower members on the working group stressed the importance of the industry going through a transitional phase to enable it to move toward the ultimate goal of deregulation. This is something that was highlighted in many submissions and consultations held with the working group, and will assist the industry to adjust to the new structures, particularly for growers who will be faced with more marketers offering options for their barley. As a result of the grower members' representations the working group is recommending the establishment of an overarching regulatory framework that can operate

as an accreditation mechanism for marketers and accumulators participating in the South Australian barley export market.

Based on the experience of other states in making an adjustment from regulation to a more competitive market it is important to have a clearly defined transitional phase, with a recognised end date. When Victoria deregulated its barley export marketing in 2001 the working group believes that without the transition it meant that many growers were not prepared for the changes. This is certainly something that was expressed in consultations and submissions where groups were advocating for a clear transition from regulation to deregulation.

In discussions with a NSW grower who was involved in the transition process from regulation to deregulation in barley marketing, it was expressed that their phase out period of the vesting rights being held for five-years was too long in the end. Therefore, in considering the suggested timeframe the working group took this into consideration to allow an appropriate period of time for the industry to make the changes to full deregulation.

The transition in Western Australia was different to that of the Eastern states in that they adopted a GLA. As discussed in section 7.3 of this report there are a number of concerns surrounding a GLA that ultimately resulted in it not be considered as part of the recommendations for the industry. One of these included the view expressed during consultations that it was not clearly communicated to growers at the time of introduction that the GLA was simply a transitional tool to deregulation. It would appear now that many growers in WA have accepted the GLA and would not wish to see it wound-up in favour of deregulation.

Therefore, the transitional step of issuing licenses being proposed by the working group is that they must obtain a license to export barley from South Australia to participate in the bulk export market. In the case of the GLA in Western Australia companies other than the CBH Group are issued special export licenses to deliver certain tonnes of barley to a given market. During consultations a number of the parties expressed concern with this process for a number of reasons, as outlined in section 7.3. These are summarised as:

- Licenses limit marketers and traders from only being able to accumulate grain if a special license has been issued.
- Traders and marketers are unlikely to develop new markets for barley when they are required to apply for a license, and that there is no guarantee a license will be issued.
- A stipulation of the NCC in allowing the GLA to be compliant under NCP was that market premiums had to be demonstrated by the principle license holder. Work completed to-date for the GLA in WA has found it difficult to determine any true market premium that is generated through the existence of licensing. This was highlighted in a report prepared for the GLA by Ron Storey (Storey, 2005), who summarised that “the exertion of market power to raise prices in very competitive global grain markets is highly unlikely”. This is certainly a view supported by other reports, and it is stated within the Storey (2005) report that a difficulty is accessing ‘accurate’ information about what is occurring overseas. It goes on to suggest that the extent to which any market premiums exist would appear to be in the Japanese market, particularly for feed barley (Storey, 2005).
- The introduction of a licensing arrangement will come at a cost to the industry. Given that no obvious advantages exist for licensing over deregulation this was not seen as a justifiable cost. In relation to cost the issue is not simply limited to the administrative cost of establishing and running a licensing body, but also the on-going political cost to the industry and its representative bodies. The cost is also difficult to justify given the likely changes that will occur to wheat marketing as a result of the Government and industry response to the Cole inquiry findings. When asking growers who supported licensing about the cost and who should pay they were unclear on what the cost might be and how it should be divided. Ultimately, even with a license fee being charged to the exporter, the grower will bear the cost of administration.
- Licensing would be only a short-term transitional step. The working group was concerned about the cost of establishing and administering the more permanent licensing arrangements in WA.
- Finding agreement from industry on the structure and guidelines for which a licensing arrangement should operate will be difficult. Some industry members who consulted with the working group strongly felt that a licensing arrangement

should be as open and broad to allow freedom to accumulate, sighting the inability to accumulate grain in WA without a license being a hindrance to the industry and the services that might be offered to growers, whilst others would argue that the guidelines would need to be limited particularly if ABB were to continue operating as a principle license holder. Operating a more open licensing arrangement than what exists in WA would be untenable to the industry.

The working group is suggesting that marketers should be accredited in order to achieve a license to export barley out of South Australia. One of the important components of this accreditation is to provide growers with confidence that the marketers that they are able to sell their barley have at least had to meet some form of minimum standards. This will reduce the possibility of a “rogue” trader entering the market and possibly causing financial loss to growers and other participants in the industry. Such a licensing system should also be of advantage to responsible marketers and traders. The transitional license arrangements will also allow growers to improve their risk management and grain marketing skills, whilst also allowing them to gain a greater understanding of organisations who provide broader services to the industry, such as NACMA and Barley Australia.

Recommendation 2:

Any company wishing to export during the transition period must be accredited to gain a license.

As outlined under recommendation 1, the working group is proposing that during the transitional period to deregulation that any company wishing to market or accumulate grain destined for the bulk barley export market in South Australia must be accredited to achieve a license.

The accreditation would include the following criteria:

- The marketer / accumulator must be a member of NACMA.
- Monitor and disclose any misleading price information posted at silo for growers (pricing regulation).
- Credit assessment of each company wishing to export (which would be graded on their expected level of exports).

- Payment arrangements and whether a company has defaulted on payments (retrospective).
- Protecting the reputation of SA barley in export markets, which would be linked to the adherence to quality standards.

A marketer or trader who has gained a license for export then has the ability to freely accumulate grain to supply markets overseas. Assessments and accreditation of market participants should be undertaken on an annual basis and completed by the end of April each year. In the event that a marketer or accumulator fails any component of their accreditation then they will not be issued with a new license to export barley. Participants have an appeal process available through the Admin & Disciplinary Division of the District Court. A license suspension would be in place for 12-months, with the marketer then being able to be assessed for a new license.

In the development of the accreditation criteria it is recommended by the working group that consideration be made as to whether some criteria does not result in loss of accreditation, but generates a warning that if not corrected by the following year results in the loss of accreditation. For instance, this might apply for something like the posting of misleading information at silos for growers whereas a company that has defaulted on payments should warrant loss of accreditation.

Such an accreditation mechanism will come at a cost, which has been taken into account during the deliberations of the working group. Indicative costs provided by ESCOSA indicate that the accreditation and licensing activities could be in the vicinity of approximately \$150,000 per annum, however, it is emphasised that these are indicative costs only and would require further consideration during the establishment of the legislative framework. As a point of reference, in the Liberal party's policy statement on a grain ombudsman it was suggested that it would come at a cost of about \$300,000 per year, which would be funded from the existing primary industries budget (Liberal Party of Australia (SA Division), 2006). The final decision on the costs and how it should be funded is something that should be negotiated between the Government and the SA Farmers' Federation Grains Council.

Finally, the only component outlined in the above accreditation that has not been addressed in other sections of this report relates to the issue of misleading pricing information at the silo by marketers. This is a policy issue that has been progressed by the SA Farmers Federation Grains Council and the Victorian Farmers Federation Grains Council. The suggested key recommendation and seven pricing principles include:

- **Key Recommendation** - *That the industry adopt a set of principles that result in all prices posted at silos and for contracts on individual buyers' sheets, reflecting the true net value of the grain to the grower before payment of statutory and industry levies.*
- **Principle 1** - *That charges deducted by the marketers and retained by them be deducted from prices and pool returns shown at the silo.*
- **Principle 2** - *That charges deducted by marketers to pay to other service providers on behalf of growers be deducted from prices and pool returns shown at the silo.*
- **Principle 3** - *That all prices and pool returns be posted net of receival fees, marketing and finance costs that will be charged direct to growers by any marketer or storage provider.*
- **Principle 4** - *That ideally each marketer would only post two pool estimates at silos, one being the distribution pool estimate, and the other being the estimated return from an advance pool payment option. If an estimate is to be shown for each pool product on offer, each estimate should reflect the true value of the product to the grower as per principles 1, 2 and 3.*
- **Principle 5** - *That all prices and pool estimates continue to be quoted on a GST exclusive basis.*
- **Principle 6** - *That all prices continue to be quoted before allowing for statutory and industry levies.*
- **Principle 7** - *That all prices posted at silos and for contracts on individual buyer's price sheets, reflect the true net value of the grain to the grower before payment of statutory and industry levies (Bartholomaeus, 2005).*

Recommendation 3:

That the government establish the legislative framework that will enable the regulatory role outlined in recommendations 1 and 2 to be performed by the Essential Services Commission of South Australia (ESCOSA).

The concept, as demonstrated in Figure 2, is to utilise the existing framework that already exists with the ESCOSA in order to minimise costs and duplication of Government structures. To support ESCOSA it is suggested that there should be an 'industry advisory committee' acting as a reference group for ESCOSA. The make up of the advisory committee would include:

- An independent chairman, someone who is known to the barley industry but is not necessarily directly involved in the industry to avoid any perceptions of bias.
- Two grower representatives, facilitating representation across production and marketing systems. It is recommended that these growers be appointed by the Minister following consultation with the SAFF Grains Council.
- An industry representative with specialist skills, for instance someone with grain marketing experience.
- Special skills representative, which would ideally be someone with commerce or legal experience that can provide advice on some of the technical matters being considered by ESCOSA.
- A Government representative.
- An Executive Officer, which would be provided by ESCOSA.

The purpose of the advisory committee would be to act as a referral mechanism for industry issues and also as a group who can provide specialist advice to ESCOSA. It is envisaged that this committee would not meet more than two to three times a year, which will assist in minimising the costs of this transitional structure. A set of guidelines for the referral of issues would need to be drafted for the committee, along with establishing a Memorandum of Understanding that can operate between ESCOSA and the committee.

The role of ESCOSA in this structure would include:

- Regulation of critical grain infrastructure, including the shipping stem. This would include pricing regulation and port access issues for third parties operating out of SA (refer to section 8.4 of this report).
- Accreditation and licensing for export of grain accumulators and exporters (refer to section 7.4 for further detail). The accreditation would include:
 - Companies would have to be a current member of the National Agricultural Commodities Marketing Association Limited (NACMA) or equivalent organisation.
 - Monitor and disclose any misleading price information posted at silo for growers (pricing regulation).
 - Credit assessment of each company wishing to export (which would be graded on their expected level of exports).
 - Payment arrangements and whether a company has defaulted on payments (retrospective).
 - Protecting the reputation of SA barley in export markets, which would be linked to the adherence to quality standards.

The defined functions and objectives of ESCOSA are contained within the *Essential Services Commission Act 2002 (SA)*, and are cited under section 7.4 of this report. Prior to the release of this report the working group met with representatives of ESCOSA to ensure that it currently has the capacity to perform the roles recommended in this report. It was indicated that ESCOSA could perform these roles, and that the regulations used for the electricity industry would be a suitable structure for grain accreditation / licensing. It is recommended that the Government establish the legislative framework that is necessary for ESCOSA to perform the tasks outlined in this report within the timeframe suggested under recommendation 4. The final detail of the accreditation process and regulatory should be negotiated between the Government and industry. In addition, when drafting the regulations a review date should be included that will be enacted within three years from the date that the regulations are proclaimed. As these changes are seen as a transitional step it is felt that the independent review should focus on the operational performance of these regulatory changes. This review should also compare the structure in place for barley in South Australia against the structure that is in place for wheat nationally to avoid unnecessary duplication. Ultimately it is important that the structures put in place

for barley marketing in the future are in line with any future structures for wheat marketing in Australia.

However, it is important to note that the role for ESCOSA in regulating the grain infrastructure at ports (storage and loading facilities) should continue beyond the transitional step of accreditation and licensing, as these regulatory roles will be important in a fully deregulated market.

Some of the key features of this structure include:

1. A small cost will apply for the accreditation to export.
2. It should be reviewed in three years to test the operational effectiveness and whether any aspects of the structure should be extended.
3. A memorandum of understanding will be developed that will set the terms and process for ESCOSA to address grower interests.
4. Growers are well represented on the advisory committee, giving them added ownership in this committee.
5. It addresses the common concerns raised about marketing security that growers have about deregulation.
6. It addresses the access to critical grain infrastructure at port by providing an additional avenue for referral by a grain marketer, which is in addition to the available options under the *Trade Practices Act*.
7. It allows for the possible expansion of the concept to a broader National focus.

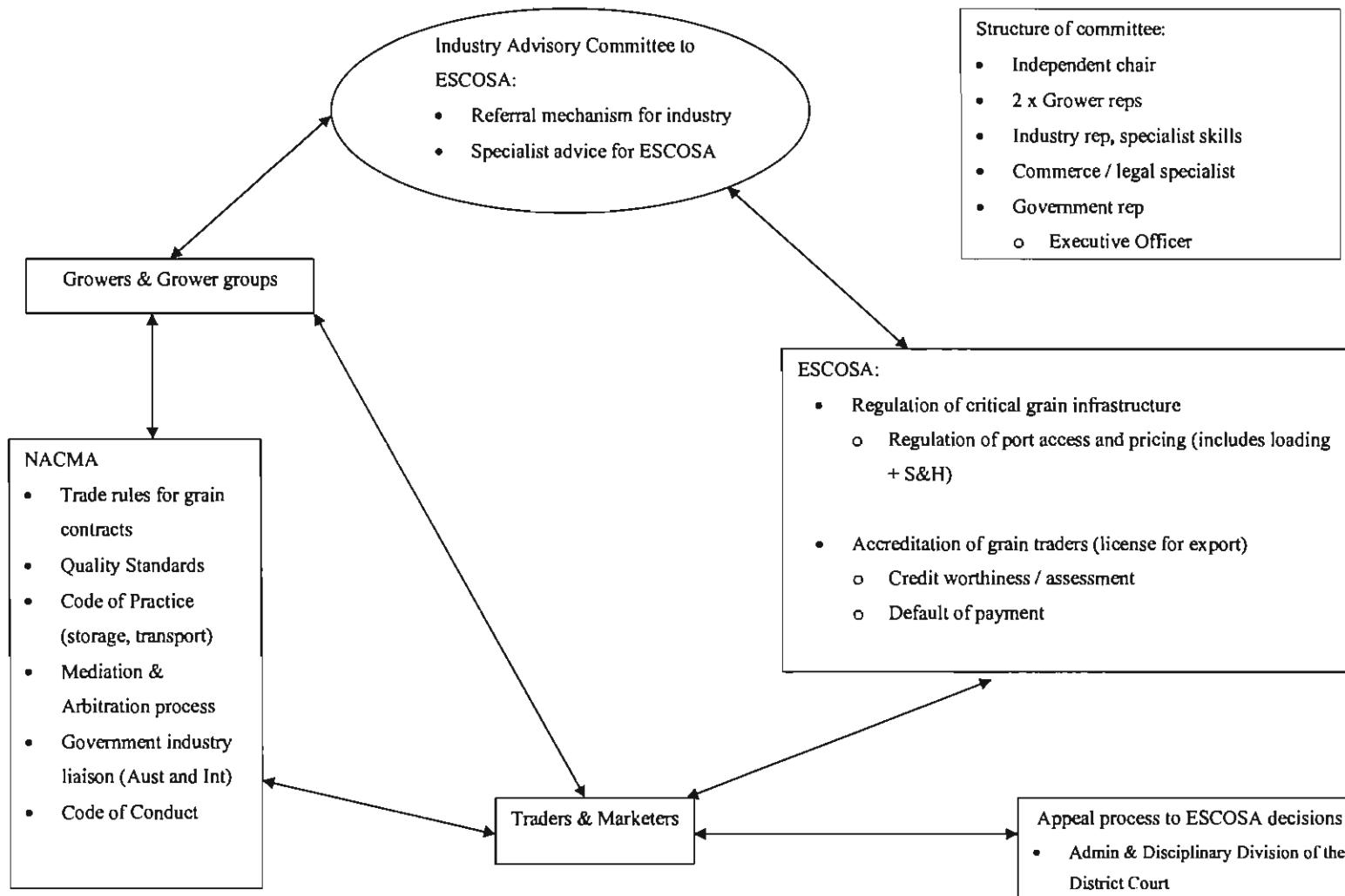


Figure 2. Schematic of the proposed model referred to in Recommendation 3.

Recommendation 4:

That these measures take effect as from 1 July 2007.

The timing of the changes is important. It is the view of the working group that unless the amendments to legislation are tabled and pass both houses by the end of March 2007 then changes would need to be delayed for another harvest.

There would certainly be some members of the industry, both growers and traders, who would argue that the changes must occur sooner. However, the following factors must be taken into consideration:

- The preparation and planning for the marketing of the 2007-2008 harvest. This includes financial and operational outlays by ABB Grain in establishing the pools that are managed as part of the current arrangements.
- The majority of growers will be ill-prepared for major changes in a short period of time. It is important that adequate time is allocated to deliver an education program to growers about the new changes, and some of the key skills that they will require in a more open marketing environment.
- Growers need to have some knowledge of the marketing systems that will be in place for the coming year prior to the commencement of their seeding program as this may impact their decisions on crop plantings for the 2007 growing season.
- The time that will be required to establish and implement the operational needs of ESCOSA and its overarching advisory committee.

The recommended timing should allow the industry to make the necessary adjustments whilst also providing the Minister with enough time to prepare the legislative amendments required.

Recommendation 5:

That the government develop an MOU with the SA Farmers Federation Grains Council, representing SA barley growers, to facilitate the provision of a range of grower services in line with the needs of a deregulated market.

Throughout the consultation process undertaken by the barley marketing working group a recurring issue that arose was the need for quality information and marketing intelligence. At present the availability of quality data on various grain commodities, and not simply barley, seems to either be held within the existing entities that have marketing monopolies or is not easily accessible.

Such information is extremely important to achieving the staged developments that will lead to an Australian grains industry that is internationally competitive, as identified within the *Single Vision* plan (GRDC and GCA, 2004). Not only does this have an impact on true market signals being provided back to the industry, but also limits the development of market innovation. Presently much of this information is held by individual marketing entities, with each claiming to have 'factual' information, but ultimately the loser in this scenario is the producer who can not make factual decisions on the way they should structure their business or industry (Storey, 2005).

This recommendation is something of a National initiative that needs to be pursued for all grain commodities. What is being suggested is a proposal similar to the Australian Wheat Associates model proposed in the Single Vision Grains Australia model. Although this might not necessarily be the final model that should be adopted by industry, it provides some indication of how it could be structured in the future. SA Farmers Federation Grains Council should pursue this through their affiliation with the Grains Council of Australia, taking account of the proposed model developed by Single Vision Grains Australia.

This initiative should be pursued by both the industry and government in order to achieve an outcome to deliver this market intelligence service to growers and the broader industry. It is envisaged that the cost to establish such an entity would be through a combination of on-going industry investment, and possibly an investment from Government to establish

the initial structure. In the longer term this new structure can replace areas that the industry currently has duplication, which leads to costs that are unwarranted.

The other aspect to this recommendation is the key grower services that were identified by the working group and outlined under section 8.6. This includes:

- Continued investment in R&D
- Market development and intelligence
- Finance options (in particular pooling options)
- Barley variety information and classification
- Access for grain options as a risk management tool
- Management of the supply chain

The details of the MOU to be developed between Government and SA Farmers Federation Grains Council should be discussed and negotiated after recommendations 1-4 within this report are adopted. It is highly likely that these services are not necessarily going to be delivered by a single government agency or industry organisation. There are potentially already a range of service providers who could perform these roles.

Recommendation 6:

That the government support the delivery of a well funded and extensive education program to assist South Australian barley growers in making the transition to a deregulated barley market.

As the South Australian barley market moves from a system of full regulation in the form of a 'single desk' to deregulation there is a requirement to ensure that the change is managed appropriately. One means in which change can be managed is through the provision of education and training to barley growers in South Australia.

Many growers, particularly those who farm in regions with limited domestic marketing options, will find themselves exposed to different marketing and risk levels in addition to ABB than they would have previously experienced in South Australia for barley. Although most farmers are more familiar with operating in deregulated markets for minor

crops such as canola and pulses, barley is a crop that will form a larger percentage of their farming business income in most production years.

Grower training and education was raised within some submissions as an important step to assisting the industry through the transition to barley deregulation. It is proposed that a training package be formed in consultation with industry that delivers initial training opportunities to growers through both printed material and workshop formats. This will be broadly broken down into:

- Risk and pricing management.
- Grain marketing.
- Ability to determine the financial security of trading entities.

The training package should be driven by industry and involve suitably qualified and experienced personnel who can deliver components of the training program. It is suggested that this is a role that the SA Farmers Federation Grains Council should be responsible for leading, similar to the role the NSW Farmers Association played during the transition to deregulation in barley marketing in NSW. The timeframe for delivery should be at least six months, and would ideally be carried out during the growing season (between seeding and harvest). An appropriate framework for the workshop forums and printed material should be developed through discussions with grower representatives and government.

A draft structure for the workshop program could include:

1. Introduction to the new changes (Government / SAFF).
2. Risk and pricing management
 - a. ASX Grain Futures
3. Marketing your own grain (outsourced to a training provider)
4. Determining the financial security of trading entities

Ideally the training package would also provide follow-up contact to maximise the uptake of the training, and that the workshop sessions would coincide with other grower meetings that might be taking place.

Recommendation 7:

That the government pursue Federal funding opportunities for the initiatives outlined in this report.

In delivering a package for the South Australian Government to put before COAG in terms of funding, the working group considered the following initiatives as forming components to be incorporated within the proposal:

1. Development and implementation of the regulatory package for South Australian barley exports (Recommendation 2).
2. Development and implementation of a body that can deliver market intelligence and innovation to the grains industry through an integrated approach at a National level (Recommendation 4).
3. Establishment and delivery of training tools to industry as part of the transition process to deregulation of barley marketing in South Australia (Recommendation 6).

During consultations with representatives responsible for the National Reform Agenda there is a need to clarify what Federal funding could be utilised in order to achieve the recommended changes presented in this report. It is possible that an argument could be developed to achieve funding to support the training and education program (recommendation 6), but it is less likely that commercial or regulatory arrangements would receive similar funding (recommendation 2 and 4).

The context of this recommendation is discussed under section 8.7 of this report.

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11. Appendix A – Correspondence relevant to the call for submissions

Letter to growers – dated 21 July 2006

Dear SA Grain Grower

Re: Update on SA Barley Marketing Working Group

In June a joint industry / government working group was initiated by South Australia's Minister for Agriculture, the Honorable Rory McEwen, to consider changes to the current *Barley Marketing Act 1993 (SA)*. This group was initiated to ensure that the current impasse that the industry is experiencing in barley marketing in South Australia can be progressed to the satisfaction of all parties.

Over recent years it has become apparent that changes to the current marketing arrangements in South Australia are necessary. This is certainly the case in terms of the State and Federal Governments interest in addressing the National Competition Policy requirements for barley marketing in SA, and also expressed by the majority of growers who responded to the barley ballot conducted earlier this year.

The working group that has been formed is established to consider the requirements from the grower / industry and also the Government's perspective in any changes that might occur. Therefore, the structure of the group involves both industry and Government representation, which includes the following people:

- Mr Garry Hansen, a grain grower from Coomandook.
- Mr Stuart Murdoch, a grain grower from Warooka.
- Mr Michael Schaefer, a grain grower from Buckleboo.
- Mr Geoff Knight, Acting CEO of PIRSA.
- Dr Don Plowman, Executive Director – Agriculture & Wine, PIRSA.

I have been appointed as the independent chair to the working group to assist in ensuring the correct process is followed and viewpoints receive appropriate consideration.

Although no explicit writing instructions have been given to a specific model at this stage, it is expected that the outcome will achieve a model that will be acceptable to meeting the grower's expectations and also the requirements of the State and Federal Government in achieving the NCP reform agenda.

The working group has been given a timeframe of completion by the end of October. Every opportunity will be taken to try and attempt to complete the process sooner; however, this will not be at the expense of due process being undertaken.

Given this timeframe, and the fact that there is a large amount of information already available on grain marketing, which includes the work conducted by Geoff Thomas and Ron Storey last year, the working group will focus on this material and not conduct another economic review of its own.

A list of companies and groups who have an interest in barley marketing are being invited to make written submissions and also consult with the working group. These are listed on the next page. It is also felt that given the various forums that have been held on single desk marketing in the past, including the very recent SAFF barley marketing information

forums held in February 2006, more grower forums are not warranted, and individual consultations will not be feasible with the time available. However, it will be possible for individual growers to document their thoughts on possible changes and provide them in a written submission. These submissions would need to be received by **close of business, 25 August 2006**.

Submissions should be addressed to:
SA Barley Marketing Working Group Secretariat
PO Box 6014 Halifax Street
ADELAIDE SA 5000

Alternatively submissions can be lodged by email to barley@saff.com.au or fax 08 8232 2222. For further information about the working group then please contact 08 8232 5555.

I would also like to stress that the consultation process and deliberations of the working group will be treated in confidence.

Yours sincerely,

Mr Neil Andrew
Chair – SA Barley Marketing Working Group

Companies and Groups being directly invited to contribute:

- ABB Grain Limited
- Australian Grain Exporters Association
- Australian Grain Accumulation (Graincorp, Cargill & Allied Mills)
- AWB Limited
- Callum Downs Commodity News
- Correh Consultancies (Colin Mann – former GLA chairman)
- CBH Group – WA
- Elders
- Grains Council of Australia
- NACMA SA
- Rural Directions
- Single Vision Grains Australia
- Storey Marketing
- Grower interest groups (i.e. Single Desk Foundation & others)

Government agencies and authorities that will also be sought for specific advice / input:

- Grains Licensing Authority in WA
- National Competition Council
- SA Department of Treasury and Finance
- SA Department of Premier and Cabinet
- Department Agriculture, Fisheries and Forestry (Federal)
- Wheat Export Authority
- ESCOSA

Sample letter to invited groups / companies (sent July)

DEAR ADDRESSEE

Re: Invitation to make a submission to the SA Barley Marketing Working Group

In June 2006, a joint industry / government working group was initiated by South Australia's Minister for Agriculture, the Honorable Rory McEwen, to consider changes to the current *Barley Marketing Act 1993 (SA)*.

The continued pressure for change to the existing marketing arrangements, as requested by industry and also Government, has resulted in the formation of this working group. The working group consists of the following representatives:

- Mr Garry Hansen, a grain grower from Coomandook.
- Mr Stuart Murdoch, a grain grower from Warooka.
- Mr Michael Schaefer, a grain grower from Buckleboo.
- Mr Geoff Knight, Acting CEO of PIRSA.
- Dr Don Plowman, Executive Director – Agriculture & Wine, PIRSA.

I have been appointed as the independent chair to the working group to assist in ensuring the correct process is followed and viewpoints receive appropriate consideration. Attached to this letter are the terms of reference for the working group.

Although no explicit writing instructions have been given to a specific model at this stage, it is expected that the outcome will achieve a model that will be acceptable to meeting the grower's expectations and also the requirements of the State and Federal Government in achieving the NCP reform agenda.

The working group is mindful of the fact that the industry and government does not want to draw out this process, and therefore is focusing on the information that is currently available. In order to achieve the objectives of the working group within the timeframe available it is important that specific companies and groups who have an interest / involvement in the SA barley industry are included in consulting with the group.

This will be achieved by inviting groups to provide a written submission against about their views on the future model for barley marketing in South Australia. We ask that written submissions be lodged by **close of business, 25 August 2006**. Consultations will take place in September by invitation.

To assist us with future correspondence we ask that you please indicate to the working group that you intend to make a submission. In your response, please indicate who you would prefer your primary contact to be through this process. We would like you to register your intent by 1 August.

Correspondence to the working group should be sent to:
SA Barley Marketing Working Group Secretariat
PO Box 6014 Halifax Street
ADELAIDE SA 5000
Email: barley@saff.com.au

I would also like to stress that the consultation process and deliberations of the working group will be treated in confidence.

I look forward to discussing this matter further with you and working with you to find a solution that can address the impasse that the industry is currently experiencing. Should

there be any questions relating to this process then please contact Dr Ben Gursansky on 08 8232 5555.

Yours sincerely

Mr Neil Andrew
Chair – SA Barley Marketing Working Group

Encl: Terms of Reference for working group

Advertisement in the Stock Journal on July 27

SA Barley Marketing Working Group

Information and Call for Submissions

In June 2006, a joint industry / Government working group was established to address the impasse faced in South Australia over barley marketing arrangements. The working group broadly aims to represent the best interests of the SA grain growers and the broader grains industry in ensuring that grain marketing arrangements are maximizing the benefits to growers and industry, whilst taking into consideration the State Government's requirements under the National Competition Policy framework.

The working group will consult with relevant industry and government representatives in the development of a model for future barley marketing, using already available industry and government reports on grain marketing structures. The group aims to report to the Minister and Industry by the end of October 2006.

Groups or companies involved in the SA barley industry are welcome to make a submission to the working group. Submissions will close on the 25th of August. Consultations will then be invited in September with relevant bodies.

For further information please contact the working group secretariat on 08 8232 5555 or barley@saff.com.au

Advertisement in the Stock Journal on August 17

SA Barley Marketing Working Group

Reminder - Submissions due 25 August 2006

In June 2006, a joint industry / Government working group was established to address the impasse faced in South Australia over barley marketing arrangements. The working group broadly aims to represent the best interests of the SA grain growers and the broader grains industry in ensuring that grain marketing arrangements are maximizing the benefits to growers and industry, whilst taking into consideration the State Government's requirements under the National Competition Policy framework.

Growers or companies involved in the SA barley industry are reminded that submissions are due by close of business 25th of August. Consultations will then be invited in September with relevant bodies.

For further information please contact the working group secretariat on 08 8232 5555 or barley@saff.com.au.

12. Appendix B – Summary of the principle groupings of submissions

Single Desk / minimal change

<i>Submission no</i>	<i>Company / Group</i>
12	Grower
13	Grower
15	Company
22	Company
25	Grower
26	Grower

Independent Single Desk

<i>Submission no</i>	<i>Company / Group</i>
4	Grower
14	Grower group

Licensing Arrangement

<i>Submission no</i>	<i>Company / Group</i>
1	Grower
2	Grower
3	Grower
5	Company
10	Grower
11	Grower
14	Grower group
16	Grower group
18	Company
23	Grower
24	Company

De-regulation / Open Marketing (where no specific model is suggested)

<i>Submission no</i>	<i>Company / Group</i>
6	Grower
7	Grower
8	Grower
9	Grower
17	Exporter group
18	Company
19	Company
20	Exporter group
21	Company

13. Appendix C – People with specialist skills invited for consultation

- Mr Ron Storey (July 17) – specific input on grain marketing structures based on his experiences with the Australian Wheat Board and also through his work for the Western Australian GLA and for the SAFF Grains Council.
- Mr Colin Mann (July 17) – specific input on grain marketing structures, in particular the Western Australian GLA from his perspective as a former chairman of that entity.
- Department of Premier and Cabinet (August 4) – specific input on the National Reform Agenda, and specifically the state’s obligations under this program.
- Single Vision Grains Australia (August 4) – input on Single Vision’s reporting on the wheat marketing paper, and an update on their views regarding feedgrain demand, biofuel, GM and infrastructure.
- PIRSA (August 24) – input on the process undertaken in 2004 toward reviewing the existing Act and proposed changes to legislation.
- ESCOSA (August 24) – input on the current regulatory role that ESCOSA plays in South Australia and opportunities for the future.
- PIRSA (August 31) – input on future demand predictions for barley usage.
- Brett Roberts (September 7) – update to the SAFF Grains Council chairman on the progress of the working group.
- Barley Australia (September 26) – input on their current role in the barley industry in Australia.
- Stuart Gall (September 26) – barley grower from NSW and member of the NSW Farmers Grains Committee on the transition to deregulation in NSW.
- National Competition Council (October 23) – update on the current situation relating to National Competition Policy.
- John Hill (October 23) – input on supply chain and infrastructure issues that might be impacted with changes to barley marketing in SA.

Media Statements by the Working Group

The following media statements were made by the working group chairman, Mr Neil Andrew:

- Interview on the South Australian *Country Hour* (June 27).
- Letter to the *Stock Journal* editor (August 24), in response to a letter by Ashley Roff, ABB's Company Secretary (August 17).
- Interview on the South Australian *Country Hour* (August 25).
- Interview on the South Australian *Country Hour* (November 21).

14. Appendix D – List of issues compiled and considered by the working group

- Three principles:
 - Transparency
 - Accountability
 - Emerging markets
- Infrastructure
 - ACCC
 - ESCOSA (critical grain infrastructure – silo / port)
- Governance / Accountability
- Innovation (within the existing framework)
- Future uses / opportunities
- Competition
 - NCP / National reform agenda (possible negotiation for support?)
 - ACCC
- New services through competition
- ABB structure – implications
 - Grain Australia – single book
 - Pools + marketing relationships
 - Accountability in using own grain
- Security of payment & buyer of last resort (risk analysis)
- Legal implications
- Further consolidation of marketing infrastructure / marketers
- Services
 - Grower services
 - Education – ROT, risk management
 - Industry services
 - Market signals
 - Harvest pricing
 - Market access
 - QA / traceability
- Industry / state reputation
- Flexibility within future legislation
- Australian Grain Alliance proposal / concept (SVGA – links to grower / industry services)
- Retention of Title
- Regulation (separating regulation from the marketing function)

15. Appendix E – Frequently Asked Questions regarding barley marketing

1. How does a deregulated market work?

A deregulated grain market is one in which growers are free to sell their grain, without regulation by statutory authorities, and achieve the best possible price.

Under a de-regulated market, nobody has a monopoly on the right to export.

ABB Grain Ltd will be one of a number of licensed exporters. These will provide more competition and the potential for higher grower returns.

NSW, Victoria, and WA are adopting deregulated marketing principles and South Australian growers need to remain competitive with other states.

2. Why has this situation occurred?

Grain marketing in Australia was traditionally controlled by statutory boards which secured grower returns through regulated pools.

A worldwide trend towards open competition in international trade and the deregulation of the domestic wheat market in the early 1990s, pointed to the need for more open, flexible and competitive grain trading conditions for Australian grain growers.

The deregulation of barley trading and the removal of a “single desk” for exporting barley has been discussed since early 1995 by farmer groups and successive Federal governments.

Under the National Reform Agenda all monopolies are subject to review, and deregulation is an increasingly likely scenario in agriculture as it has been in other industries, eg manufacturing to media ownership and retailing.

3. Is this related to the Cole inquiry into AWB?

No. The Cole Inquiry is an investigation into the dealings of Australian companies involved in the United Nations Oil for Food Program. While that inquiry may result in pressure on the AWB's single desk status, this is not related to the barley industry's long term deliberations to achieve better outcomes for growers.

4. What is ESCOSA? What is its role in barley marketing?

In 2002 the former Office of the South Australian Independent Industry Regulator (SAIIR) became the Essential Services Commission of South Australia (ESCOSA). It oversees the orderly functioning of key services such as SA's electricity, gas, water, railways and ports.

As the Commission already exists it allows grain trader licensing to be introduced at minimal cost.

It also has the advantage of being independent of the grains industry which assures growers that prudential standards are being met.

5. If 80% of growers were found to be in favour of the Barley Single Desk in a grower review conducted earlier this year, why has deregulation been recommended?

The Working Group's recommendation to support deregulation is a carefully considered strategic move which will put SA barley growers in a competitive international position over the next 20 years.

It comes at a time when both Victorian and NSW growers have become increasingly identified with deregulation as a successful way to market their barley.

The Working Group has drawn on extensive research such as The Round Review conducted in 2003, which found a form of deregulation to be in the long-term interests of SA barley growers.

It has also been encouraged by the broad based acceptance of deregulated domestic barley marketing which has been in place for more than 10 years.

Public policy insists on a regular review of all existing regulated marketing arrangements and these reviews consistently highlight the advantages of deregulation. In fact many other commodities are also successfully marketed in a deregulated environment.

The Working Group is aware that growers are increasingly asking for more choice and competition in barley marketing and it is confident that deregulation will not only improve returns but reduce grower risk.

6. How much grower consultation took place?

A call for grower submissions was advertised extensively and we received a total of 26 responses from growers and industry. There was a grower majority on the Working Group and all key stakeholders, including ABB Grain Ltd, were consulted.

7. What options were considered in this review?

The marketing models considered were:

- a. Retention of the single desk.
- b. Implementation of an independent single desk.
- c. Implementation of a licensing arrangement.
- d. Deregulation.

8. Will anyone be disadvantaged by deregulation?

The Working Group did not identify any major losers under these new arrangements. It recognised that growers who 'play the market' without adequate information could be at risk, but it has taken steps to maximise the market information stream to growers and ensure that ABB can play a strong role in a competitive market.

It is the Working Group's view the ABB will not only continue as a major player in the barley industry, but is well positioned to attract a high proportion of the crop.

9. Who will benefit most from these changes?

The Working Group believes that these changes will benefit all South Australian barley growers by maximising their choice, when it comes to selling their grain, and increasing opportunity across the barley industry.

It will also oblige marketers to compete both in terms of price and services.

10. How will this impact on grower returns?

The working group strongly believes that these changes will maximise grower returns. However, we recognise that in any commodity market the ultimate price will be determined by supply and demand.

Grower returns will be maximised because marketing efficiency is now the criteria for attracting business.

11. How will growers be assured security of payment, particularly when they will not have a 'buyer of last resort'?

The Working Group has recommended that ESCOSA apply a licensing role in the market using its National Agricultural Commodities Marketing Association (NACMA) membership and other prudential testing to ensure, as far as possible, security in payment and the maintenance of the reputation of the SA barley industry for quality.

The Working Group found little evidence of a 'buyer of last resort' generating any grower benefits. Ultimately the market will determine, through competition, whether a sale will be made.

12. How will marketing opportunities for growers/traders be affected as a result of these changes?

The working group is optimistic that opportunities will improve for growers and traders because of the energetic approach to finding new markets which typically follows deregulation. This has been the experience of Victoria, and even WA, with the introduction of competition to the market place.

13. How will grain quality standards be maintained?

The export protocols established by the Australian Quarantine and Inspection Service (AQIS) remain in place.

NACMA currently performs the role of setting quality standards for barley in all states, regardless of the state's regulatory status. Under the working group recommendations all exporters will be obliged to meet the NACMA quality standards for barley.

14. How will an efficient and accessible supply chain be maintained in this new environment?

The Working Group acknowledges that this is an area that needs reform. It suggests that an industry committee (comprising SAFF Grains Council, NACMA and ABB as the largest storer and handler of grain) be established to negotiate long-term rail contracts with the relevant operator in order to ensure that this infrastructure is maintained. Road freight rates are currently set by NACMA and we recommend this continue.

15. In particular how will grower access to critical grain infrastructure (ports, silos, storage and shipping) be managed?

ESCOSA is already charged with regulating access to ports and port pricing, and the working group has recommended that this role be expanded to incorporate grain loading and storage facilities at port so that they are accessible to all exporters of barley.

To reinforce this commitment, the Working Group has recommended an independent advisory committee to ESCOSA be established, which will represent grower and industry interests.

16. Who will supply accurate and timely market intelligence to growers?

The Working Group is excited about the opportunity which exists to improve market intelligence services to growers.

Every effort will be made to encourage the government and industry to interact to ensure the supply of accurate and timely market information.

In fact the Minister has agreed to the development of a Memorandum of Understanding with industry to ensure this service is delivered.

17. Who will provide barley variety and classification information to buyers?

The provision of this information does not change under a deregulated market.

Growers will continue to be able to access this information through existing agronomists, marketers, grower organisations and Government agencies. Barley Australia currently performs a role in classifying malt varieties and is considering expanding this to feed barley, something that the working group encourages.

18. Will growers have access to long-term finance options through other traders?

The working group stresses that ABB will continue to be a major player in the market and may choose to offer pools to growers, as it does in the deregulated Victorian barley market.

Other traders will need to offer similar, if not better services (including long-term finance options) in order to compete against ABB.

The Working Group is aware that some potential marketers have already indicated their willingness to do this.

19. Will the new arrangements offer flexibility in forward selling/futures trading for growers?

Apart from the pool and finance options discussed above the notion of a deregulated market is that there are no barriers to entry. This means that there is an opportunity for additional services to enter the market, such as ASX Grain Futures, to provide forward selling opportunities for South Australian barley growers.