

**Submission to
Australian Competition and Consumer Commission**

**~ GrainCorp Ltd - proposed acquisition of United
Malt Holdings ~**

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Executive Summary

The Association is concerned about the proposed acquisition due to the following effects it will have in the grains industry:

- Loss in downstream competition resulting from the loss of Barrett Burston as a potential customer.
- Private storage operators who currently accumulate malt barley on behalf of Barrett Burston will eventually no longer be in the market place.
- Increased market power which could be exercised by GrainCorp Ltd and ABB resulting in below market prices received by NSW malt barley farmers
- GrainCorp Ltd's vertical integration into the processing (malting) segment of the supply chain would place the company in an even greater position of market dominance.

1 Introduction

The NSW Farmers' Association (the 'Association') is Australia's largest State farming organisation representing the interests of the majority of commercial farming operations throughout the farming community in NSW. Through its commercial, policy and apolitical lobbying activities it provides a powerful and positive link between farmers, the Government and the general public.

The Association welcomes the opportunity to provide comment to the Australian Competition and Consumer Commission's (the 'ACCC') review of GrainCorp Ltd's ('GrainCorp') proposed acquisition of United Malt Holdings ('UMH') (the 'proposed acquisition').

The Association is concerned that the proposed acquisition on two fronts. Firstly, with the fragmented nature of the NSW farm sector which supplies almost the entirety of its malting barley to two customers, there is considerable scope for farmers to receive below competitive prices for their malting barley.

Secondly, the proposed acquisition will go to further entrench GrainCorp's position of market dominance throughout the entire grain supply chain. As such, the proposed acquisition raises creeping acquisition issues that NSW primary producers face little to no ability to counter.

2 The Malt Barley Market

The three major malting companies in Eastern Australia are as follows:

- Barrett Burston Malting Co Pty Ltd - approx 270,000 T capacity per annum in 5 production facilities including new facility to be at Pinkemba Brisbane adjacent to GrainCorp bulk goods centre and port.
- Joe White Maltings (ABB Grain's Malting Division) – approx 500,000 T capacity per annum (located in Perth, Adelaide, Ballarat. Melbourne, Devonport, Tamworth, Brisbane and soon to be Minto in Western Sydney – 108,000 T).
- Malteurop – 74,000 T capacity per annum (Geelong).

Table 1: 10 major malting companies worldwide

Malting Company	Approximate Annual Capacity (million tonnes)
Malt Europe	2,200,000
Souflett	1,800,000
Cargill	1,500,000
UMH	1,200,000
Supertime	1,000,000
Rusky	900,000
COFCO	800,000
Joe White Maltings	600,000
Greencore	520,000
RARH	510,000

Table 1 above provides the 10 major malting companies worldwide. UMH and Joe White Maltings are featured 4th largest and 8th largest respectively. The 1.2 million tonne approximate annual capacity of UMH includes Barrett Burston, along with:

- Great Western Malting – one of the largest malt producers in the United States
- Canadian Malting Company – the largest malt producer in Canada
- Bairds Malt Limited - UK

3 Potential for Reduction in Downstream Competition

The extent to which farmers could switch between grains would not be affected severely by the proposed acquisition. Most crops; be they summer or winter have a growing season of approximately 6 months. The on-farm infrastructure required to grow different crops is similar, be the crop barley, wheat, oats, sorghum. Northern NSW can grow both summer and winter crops, whilst southern NSW is generally restricted to winter cropping.

The extent to which farmers could supply barley to alternative buyers, including alternative grain exporters could be limited by the proposed acquisition. The Association is concerned that the proposed acquisition could mean that private storage operators who currently accumulate malting barley on behalf of Barrett Burston will eventually no longer be able to be a potential customer for malting barley farmers. These private storage operators currently provide prices at some GrainCorp sites.

Currently, the main competitor to GrainCorp in buying malting barley in eastern Australia is the Australian Barley Board ('ABB'). On 19 October this year, when barley harvest was underway in the northern half of the State, the ABB website only displayed prices for malting barley grades at Biniguy, Boggabilla, Combara, Condobolin, Croppa Creek, Delungra, Gurley, Moree, Tottenham and Warialda GrainCorp sites.

Agrigrain is currently 1 of about 6 accumulators for Barrett Burston, accumulating approximately 20% of their malting barley requirements across Australia, and is Barrett Burston's main accumulator in NSW. Agrigrain also have prices listed at Combara, Gilgandra, Tottenham, Trangie, Boggabilla, Delungra, Moree and Warialda GrainCorp sites as at 19 October this year. If the proposed acquisition was completed, it would seem unlikely that Agrigrain will continue to supply malting barley to Barrett Burston. Therefore there will only be two possible supply contracts available to private storage operators. However with one of these contracts, Joe White Malsters, already supplied by its parent company, Australian Barley Board ('ABB'), means there will remain one single malting barley supply contract on the Australian eastern seaboard, Malt Europe, who has a considerably smaller customer.

It is likely that this will result in major consolidation in private malting barley storage operators in NSW, which means NSW growers of malting barley will have only two potential customers, ABB and Graincorp. Both of these grain purchasers also happen to be large vertically integrated market leaders. With the fragmented nature of the Australian farm sector (there are 39,236 primary producers in NSW alone¹)

¹ Australian Bureau of Statistics, Agricultural Commodities 2007/2008, Catalogue No. 7121.0.

supplying almost entirely all of its malting barley to two customers, there is obvious considerable scope for farmers to receive prices below that which would be received in a competitive market.

However, another major concern for the Association is the continued concentration of market power by GrainCorp via the acquisition of its smaller rivals, across all stages of the grain supply chain. Accordingly, the proposed acquisition appears to raise serious creeping acquisition issues in the broader grain supply chain sector.

By way of background, presently GrainCorp controls 7 out of the 8 ports on the east coast; the above rail operation of the NSW grain branch line network; and approximately 170 grain receival and storage sites in NSW alone. The Association is concerned that the proposed acquisition would increase GrainCorp's vertical integration into the processing (malting) segment of the supply chain. This would place the company in an even greater position of market dominance.

The Association will also be writing to GrainCorp to clarify the testing procedures used at the GrainCorp receival sites. It is important that GrainCorp, in their position as a receiver of grain on behalf of both itself as a buyer and on the behalf of other buyers, have testing procedures that are consistent across their receival network and are compliant with the relevant Barley Receival Standards.

4 Grain Supply Information Transparency

It is widely known within the industry that Australian grain bulk handling companies have information readily available to them relating to stocks on hand, which can be updated on a daily basis.

Market dominance has the affect of restricting the timely flow of market supply and demand information required by the industry and currently formulated and released by the Australian Bureau of Statistics ('ABS'). This information can take the ABS up to three months to collect and publish to the industry.

The ABS has advised the Association that they cannot obtain or publish this information partly because of the breach of commercial in confidence laws. That is, if the ABS were to publish stocks on hand per port zone per week or month, this would be highlighting stocks held on hand within a particular bulk handler's system, and is therefore a breach of commercial confidence in the grains industry (although the same principle is apparently not a breach in the wool industry where export information is made available). The Association suggests that competition within the sector would benefit significantly from a regulatory change allowing ABS to publish such information in the interests of market transparency is required.

This situation further highlights the apparent significant market power held by bulk handlers to control the information flow to the market place. It may be feasible that the publication of this information would encourage commercial innovation to particular sectors of the industry simply by exposing opportunities currently vigorously protected by the existing participants.

5 Conclusion

Presently GrainCorp is in control of 7 out of the 8 ports on the east coast, the above rail operation of the NSW grain branch line network and approximately 170 grain receival and storage sites in NSW alone. The Association is concerned that the proposed acquisition would increase GrainCorp's vertical integration into the processing (malting) segment of the supply chain, which would place the company in an even greater position of market dominance.

The Association is concerned that the proposed acquisition could mean that private storage operators who currently accumulate malt barley on behalf of Barrett Burston will eventually be no longer in the market place.

The Association has also identified a clear need for added transparency in the market place through better and more timely information flows which will not only better inform buyers and sellers of grain but will also allow increased coordination of the accumulation and shipping of cargoes.