



Competition Bureau  
Canada

Bureau de la concurrence  
Canada

**Gaston Jorré**  
**Senior Deputy Commissioner of Competition**  
**Competition Bureau**

**Remarks to the**  
**Standing Committee on Agriculture and Agri-Food**  
**Current Competition Issues Relating to Port Terminal**  
**Grain Handling Services**

**Ottawa, Ontario**

**November 23, 2005**

**(Check against delivery)**

Thank you Mr. Chair and Members of the Committee.

We are pleased to take part in your study of competition issues relating to port terminal grain handling services. Joining me today are Richard Taylor, Deputy Commissioner of Competition, Civil Matters Branch and Patrick Hughes, Acting Major Case Director and Strategic Advisor, Mergers Branch.

As I indicated on Monday, at our earlier appearance, the purpose of the *Competition Act* is to maintain and encourage competition in Canada.

The Competition Bureau's objective is to ensure a competitive marketplace which provides Canadians with competitive prices and product choices. Our work promotes the efficiency and adaptability of the Canadian economy.

There are currently two agriculture-related cases before the Competition Tribunal. Before briefly describing those matters, I should indicate that, while I can provide the Committee with some background regarding

those matters, my ability to comment is limited due to the confidentiality provisions of the *Competition Act* and the fact that we are involved in litigation.

Turning to the first of the two matters -- in early November, the Bureau filed an application with the Tribunal challenging a grain handling joint venture between the Saskatchewan Wheat Pool and James Richardson International at the Port of Vancouver. Our evidence indicates that this joint venture would increase concentration in the control of port grain terminals at Vancouver, which combined with other market conditions, would likely result in a substantial lessening of competition and a reduction of competitive options for farmers and companies that ship grain to the Port.

The second matter stems from the 2001 acquisition of Agricore Cooperative by United Grain Growers Ltd. (United Grain Growers carries on business as Agricore United).

The acquisition gave rise to competitive issues both at the primary grain elevator level in the Prairies, as well as at the Port of Vancouver at the port terminal level.

As for the issues arising in the Prairies, pursuant to a settlement reached by the Commissioner and Agricore, the Tribunal issued in February 2002 a Consent Order requiring Agricore to divest six primary grain elevators in Manitoba and Alberta in local markets where the Bureau had identified competition concerns. The Order required Agricore to complete the divestitures within a set period of time, failing which, the elevators would pass to a trustee for sale. Five of these elevators were subsequently sold by Agricore United within its allotted time period. Agricore did not sell the one remaining elevator within its allotted period. That period was extended on several occasions by the Commissioner to allow Agricore additional time to sell the elevator. Ultimately, a trustee was appointed and completed the sale of the elevator in question.

In terms of the issues at the Port of Vancouver, the Bureau entered into a Consent Agreement with Agricore, in October 2002, requiring it to sell one of its grain terminals at Vancouver. Agricore subsequently decided to sell the UGG terminal. Under the terms of the Consent Agreement, Agricore had until October 31, 2004 to divest the terminal. Agricore did not divest the UGG terminal within the allotted period. However, this initial sale period was extended 10 times because Agricore had indicated to the Bureau that it was close to finalizing an agreement with a potential buyer.

In August 2005, the Commissioner refused to agree to a further extension. Agricore then filed an application with the Tribunal to rescind the agreement, arguing they should not have to sell the terminal at all, as conditions had changed. As a result of subsequent negotiations and legal proceedings, the Commissioner agreed that the period during which Agricore can sell the terminal should be extended until the litigation before the Tribunal is completed.

Since October 17, 2002, Agricore has been in a position to find a buyer for the UGG Terminal and continues to be in that position today. Any purchaser would have to be approved by the Commissioner of Competition on the basis of the terms set out in the Consent Agreement. Specifically, the Commissioner must be satisfied that the purchaser is arms-length from Agricore; that it will continue to use the port terminal for grain handling; and that it has the managerial, operational and financial capability to operate the plant. In addition, the Commissioner must also consider the likely impact of the divestiture to that purchaser on competition in the relevant market.

In closing, the Competition Bureau is concerned about the state of competition in the grain industry. As demonstrated by these recent cases, the Bureau is prepared to take actions in appropriate circumstances.

Mr. Chair, we would now be pleased to respond to any questions you

may have.