

29th November 2023

The Director
Consumer Policy & Product Safety Unit
Market Conduct & Digital Division
The Treasury
Langton Crescent
Parkes ACT 2600

Via Email: consumerlaw@treasury.gov.au

Re: CRIS – Protecting Consumers from Unfair Trading Practices

1.0 About GTA

Grain Trade Australia (GTA) is the focal point for the commercial grains industry within Australia. It facilitates trade and works to provide an efficient, equitable and open trading environment by providing leadership, advocacy, and commercial services to the Australian grain value chain.

GTA members are responsible for over 95% of all grain storage and freight movements made each year in Australia. Over 95% of the grain contracts executed in Australia each year refer to GTA grain standards and/or trade rules. GTA provides a formal Dispute Resolution Service accessible to grains industry participants.

GTA members are drawn from all sectors of the grain value chain from production to domestic end users and exporters. GTA members are involved in grain trading activities, grain storage, grain for human consumption and stock feed milling. A list of GTA member is attached as an addendum to this submission.

GTA welcomes the opportunity to make this submission to the review to protect consumers from unfair trading practices.

2.0 Introduction

The Australian grain industry¹ is a major economic contributor in regional Australia and to export revenue, with annual value of production in 2022/23 forecast (excluding rice) to be a record \$30.7 billion at the farm gate and \$28.3 billion of exports², meaning the grain industry is the highest value industry in the agriculture sector, contributing more than 33% of Australia's agricultural gross value of production annually.

The industry achieved record summer and winter production in 2022/23 of 71.7 million tonnes (mmt) following two prior large crops with 68.0 mmt in 2021/22, and 59.9 mmt in 2020/21.

Trade and an efficient supply chain is vital for the Australian grain industry and regional communities, with the Australian grain industry being highly export oriented e.g., 65 -75% of grain is exported.

3.0 Effective Trade

GTA's role is to support and facilitate trade within the Australian grain supply chain. This focus, aligned with the collaborative support of other industry associations and Government has resulted in

¹ Grains include wheat, coarse grains, oilseeds, oilseed meals and pulses

² Source: ABARES, 2023

a framework and supporting rules of engagement that minimises the event of unfair trading practices within the grain industry.

This industry driven self-regulatory framework has been established (and continues to evolve) since the removal of the last grain marketing regulation in 2008 (Wheat Export Marketing Act). GTA and its suite of products, services and advocacy provide the foundation for the Australian value chain and its members to participate in the growth of the grain industry within Australia and the global marketplace.

Trade works best when it is a **willing exchange** of goods or services between different counterparties and the trade is generally considered to **benefit both parties**. Whilst grain is a relatively stable and non-perishable agricultural commodity the fundamentals that work for efficient trade within the grain sector should be readily applicable to other agricultural commodities even including perishable goods when market participants have a framework, and the supporting culture and will to engage in beneficial trade.

4.0 Grain Industry Framework

The commercial trade of grain across the supply chain consists of multiple parties and complex interactions.

Poor, albeit generally well-intended, regulation can create unnecessary costs to business and consumers and inhibit trade. The grain industry benefits from an industry driven self-regulatory framework provided through GTA's product and services.

As a general principle, GTA would encourage regulatory simplicity and consistency to optimise business efficiency, and minimise regulatory cost burden on consumers and business, thereby driving optimal value across the economy.

The following Table provides a summary of the arrangements and structures developed for the grain industry. These industry documents and services were developed and continue to be updated through review by the GTA Board and GTA Technical Committees:

Table 1. Industry Driven Self-Regulatory Framework

Item	Description	Comment
<u>Australian Grain Industry Code of Practice</u>	The Code plays an important role in the facilitation of trade and creates value by ensuring confidence in the Australian value chain. The Code is recognised by the Australian Government and by governments in our destination markets increasing surety and confidence, to support trade and market access arrangements for Australian grains, pulses and oilseeds.	Adherence to the Code is mandatory for GTA Members
<u>Supporting Codes and Technical Guideline Documents</u>	The GTA Transport Code of Practice and the more than 20 supporting Technical Guideline Documents (TGDs) are supplementary to the Australian Grain Industry Code of Practice.	These documents provide more detailed information on elements of the Code and appropriate industry standards and behaviours and provide industry a source of important reference documents.

Item	Description	Comment
<u>GTA Standard Form Grain Contracts</u>	The GTA contracts and the GTA Brokers Note provide standard terms and conditions for the trade of grain within Australia, the storage and the transport of grain and for an ocean vessel 'voyage charter'.	Standard Form Grain Contracts provide all participants base level contracts to utilise when and if the counterparties do not have their own existing negotiated contracts. This is advantageous to trade facilitation. However, parties are free to include other terms and conditions or contract under their own terms.
<u>GTA Trade Rules</u>	GTA Trade Rules set out the appropriate rules and customs for counterparties involved in trade of grain. The Trade Rules apply only to the extent that the parties to a contract have not agreed to alter the Trade Rules, or the relevant contract is silent on a matter dealt with by the pertinent Rule.	The Trade Rules help to provide context and to fill in the gaps for matters not specifically covered in contracts.
<u>GTA Dispute Resolution Service 3</u>	GTA conducts an Arbitration service to deal with commercial contract disputes. GTA's Dispute Resolution and Arbitration Service instils commercial confidence in the industry by underpinning and providing sanctity of grain contracts in Australia. This increases market efficiency and reduces risk across industry. Awards issued by GTA Arbitrations are as enforceable as a ruling by a Court. The service is open to all grain industry participants not just GTA members.	The Dispute Resolution Service offers: <ul style="list-style-type: none"> • Full Arbitration, • Fast Track Arbitration, and • Small Claims Arbitration The GTA Dispute Resolution service complies with the NSW Commercial Arbitration Act.
<u>Complaints Handling Technical Guideline Document</u>	The Complaint Handling Guidelines are intended to ensure that GTA handle complaints fairly, efficiently, and effectively. These guidelines apply to all complaints from GTA members, industry participants and other stakeholders regarding matters arising under the Australian Grain Industry Code of Practice.	The guidelines do not apply to commercial or contractual disputes. They provide an avenue for the reporting of behaviour and poor commercial dealings of GTA members in relation to the Code.
<u>GTA Grain Trading Standards</u>	GTA develops and publishes the wheat, coarse grain and pulse Trading Standards for the industry and distributes the standards for oilseeds (developed by Australian Oilseeds Federation). These standards are the	Trading Standards provide an agreed 'level playing field' with regard to the quality of grain traded facilitating transparency in the pricing and the quality of the Australian crop to the

Item	Description	Comment
	<p>basis of trade for domestic and export contracts.</p> <p>Trading Standards describe the particular qualities and characteristics of particular grades of various grain commodities with reference to common characteristics (such as protein, moisture and screenings). The use of agreed or defined Standards facilitates contracting by giving parties to contracts common reference points on which to base negotiations.</p>	<p>benefit of grain producers, merchants and grain consumers.</p> <p>The Trading Standards are developed through industry committees and consultation to ensure a balance of customer requirements, the ability of the storage system to segregate or commingle grain and the commercial operations of grain producers and grain marketers.</p>
<u>Industry Stewardship and Training and Development.</u>	<p>GTA's Board and its eight Technical Committees and Sector Councils consist of volunteer members as part of GTA's member driven process to develop the industry structure and the framework. They draw in the expertise of industry to develop policy for the broader benefit of industry and its members.</p> <p>GTA also provides training programs to ensure the professional development of its members.</p>	<p>GTA Training and Professional Development programs, including the Australian Grain Industry Code of Practice Assessment Program, have been developed by GTA, and are an important part of industry stewardship. These training programs are significant and important professional development opportunities for industry participants to improve skills and knowledge, and importantly improve industry capability.</p>

The industry driven self-regulatory described above has been developed and refined over multiple years since GTA formation in 1991. Its strengths are its constant review by Technical Committees and industry participants to improve and adapt the components to reflect changes in the market, regulatory arrangement and emerging issues. GTA's processes, including submissions and consultations ensure good governance, while still meeting the needs and expediency required by the market.

GTA would suggest a deeper or more prescriptive regulatory approach to (any) unfair trading practices within the context of the grain industry will not deliver the same level of expediency, transparency and effective industry review and relevance as applied under any regulatory approach.

5.0 Conclusion

Whilst this review must obviously consider the breadth of all industry sectors and their markets GTA's view is to encourage regulatory simplicity and consistency to optimise business efficiency and minimise cost burden on business. Therefore GTA preference is the CRIS Option 1 – Status Quo.

We believe there are realistic opportunities for the Australian Government and industries given time and intent to develop their own collaborative approach to support efficient and effective trade in their sector.

We thank you for the opportunity to make this submission. We request that you keep us updated on developments and progress in this important review.

Please do not hesitate to contact GTA should you have any queries or should we be able to be of assistance.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'P O Shannassy', with a stylized, cursive script.

Pat O'Shannassy
CEO, Grain Trade Australia