



Submission to:

Australian Competition and Consumer Commission

**Consortium comprising Brookfield, Qube & others –
propose acquisition of Asciano Limited**

Monday 18 April 2016

Prepared by:
Organisation: The Western Australian Farmers Federation (Inc)
President: Mr. Tony York
Address: 125 James Street
Guildford WA 6055
Postal Address: PO Box 68
Guildford WA 6935
Phone: (08) 9486 2100
Contact Name: Maddison McNeil
Title: Executive Officer
Email: maddisonmcneil@wafarmers.org.au

Background:

The Western Australian Farmers Federation (Inc) (WAFarmers) is WA's largest and most influential rural advocacy and service organisation. WAFarmers represents approximately 3,000 Western Australian farmers from a range of primary industries including grain growers, meat and wool producers, horticulturalists, dairy farmers and beekeepers.

Introduction:

WAFarmers interest in the Asciano Limited acquisition was sparked through concerns about the potential implications on competition as a result of the vertical integration of the company with Asciano. The assets owned by Asciano, when combined with any business that has an investment portfolio in the same market, is a potential vertical integration and therefore incentive.

WAFarmers has made numerous submissions to the Australian Competition and Consumer Commission (ACCC) regarding the proposed acquisitions of Asciano. WAFarmers makes this submission to support the concerns raised in previous submissions on 4 November 2015 and 22 January 2016.

WAFarmers primary concerns remain around the long-term implications of vertical integration of the Asciano assets in a restricted, monopoly market. WAFarmers thanks the consortium members for the effort to address competition concerns, and we welcome the ACCC assessment on these concerns.

Consortium arrangement:

The consortium has eight funding partners, each with investment portfolios that range significantly. In conjunction with this proposed acquisition, there are also shareholdings and shared investments between consortium members. The previous acquisitions and business interests shared between some consortium members could lead to further mergers and acquisitions of assets that could impact on a competitive market.

WAFarmers is concerned that the complexity of the Asciano businesses, when combined with the investment portfolios of the consortium members, will result in vertical integration of the market. This vertical integration will lead to market forces that could unduly influence a competitive market.

The ACCC have acknowledged that infrastructure, such as railways and ports, have monopoly characteristics, as there is a limited amount of natural competition. The ACCC also acknowledge that the best constraint on market power is competition or the threat of competition¹. WAFarmers supports the statements regarding market power of monopoly assets, particularly regarding the importance of competition, and therefore remain concerned about the implications on the acquisition on market functionality.

1 - How did the light handed regulation of monopolies become no regulation? Mr. Rod Sims. ACCC Speeches. www.accc.gov.au/speech/how-did-the-light-handed-regulation-of-monopolies-become-no-regulation

Summary:

WAFarmers is yet to be convinced that the acquisition of Asciano by the consortium partners is in the best long-term interest of a competitive market.

The long-term functionality of the consortium arrangements, as identified in Diagram One, remains a concern to WAFarmers. The complexity of ownership and the potential for changes in the future are areas that require further consideration for the consortium. The concern on the long-term ownership is a result of the potential changes within the Western Australian infrastructure ownership, particularly the privatisation of the Fremantle Port.