

**Presentation to the Senate Standing Committee on
Legal and Constitutional Affairs
December 5, 2006**

Good afternoon Senators.

My name is Ken Ritter and I am chairman of the Canadian Wheat Board's board of directors. I farm in the Kindersley area of western Saskatchewan and am now in my third term as the elected representative of farmers in my district.

Back on September 20th, the CWB appeared before this same committee to request that it be removed from the list of entities designated as "Other Government Agencies" that are subject to the Access to Information Act (ATIA). Our argument then – as it is now – was that the CWB is not a government agency, that it already has an information policy and that adding it to this list would only add unnecessary costs to the CWB's operations, costs which farmers bear in whole. Barring outright removal, we requested at the time that the CWB be at the very least provided the same kind of protection that is afforded to four other organizations listed in the proposed section 18.1, namely Canada Post, Export Development Canada, the Public Sector Pension Investment Board and Via Rail.

The CWB wishes to extend its gratitude to the Legal and Constitutional Affairs Committee for having proposed amendments to the ATIA that addressed our concerns. It was our hope that the amended bill would pass in the House of Commons and that we would be done with this issue.

Unfortunately, this was not the case. The CWB has been put back on the list of "Other Government Agencies" by the House of Commons and it finds itself today in much the same position as it was when I spoke to you in September.

While we are still of the opinion that the CWB should not be subject to the ATIA, we realize that there is very little point in going back to the House of Commons with an amendment that would again be defeated.

Rather, we believe that, at this point, the proposed legislation should be amended to grant the CWB the extra protection to which I earlier referred.

Like the CWB, Via Rail Inc., Export Development Canada, the Public Sector Pension Investment Board and Canada Post are all engaged in extensive commercial activities where the disclosure or possible disclosure of commercially sensitive information could put the organization at a commercial disadvantage. However, the proposed section 18.1 will give these entities additional protections for sensitive information. Specifically, where the information contains trade secrets, or financial, commercial, scientific or technical information, the entity only has to establish that it has consistently treated that information as confidential. It will not have to establish that the information has or may have "substantial value". That is important since, despite the fact the information in question may clearly be commercially sensitive, it may well be impossible to establish, to the standards required by ATIA, that the information has "substantial value" in its own right.

The CWB is in a similar situation. It deals with hundreds of commercially sensitive transactions each day. Viewed in isolation, the information related to any one of these transactions may or may not be considered to be of "substantive value". Collectively, however, they could put at risk the CWB's ability to act effectively on farmers' behalf.

Therefore, if it has to be made subject to the ATIA, the CWB asks that it be added to the list of the organizations currently protected under proposed section 18.1.

It should also be noted that a similar request was made to the Minister of Agriculture and Agri-Food in a letter dated September 19, 2006. The letter was copied to the President of the Treasury Board.

I wish to again thank the members of the Committee for the attention you have given to this issue. It is my sincere hope that the request that the CWB is placing before you today will not only garner your support and that of the Senate as a whole but that it will also yield a bill that can successfully pass through the House of Commons.

Now I would be pleased to answer any questions the members of the Committee would have.