

## NEAT Domestic Trading Pty Ltd v AWB Ltd (2003) 216 CLR 277

<https://lawcasesummaries.com/knowledge-base/neat-domestic-trading-pty-ltd-v-awb-ltd-2003-216-clr-277/>

### Facts

- Australian Wheat Board Ltd (**AWB**) was established by the Commonwealth in 1939 and was granted a monopoly over the export of wheat in Australia under the *Wheat Marketing Act 1989* (Cth).
- No other company could export wheat in bulk without the AWB's consent.
- NEAT Domestic Trading Pty Ltd (**NEAT**) was a grain trader.
- NEAT requested consent to export wheat but was refused. NEAT appealed this decision.
- NEAT claimed that AWB was acting under a rule or policy without any regard to the merits of the case, thereby invoking s5(2)(f) and s6(2)(f) of the *Judicial Review Act 1977* (Cth).
- The policy in question was that AWB would refuse export permits to other bodies.

### Issue

- Whether AWB, in withholding approval, exercised discretionary power in accordance with a rule or policy without regard to the merits of a particular case?

### Held

- Gleeson CJ found against NEAT on the grounds that the policy in question was legal, and that no material had been put to AWB that could persuade it to deviate from its policy.
- AWB's commercial charter meant that it was free to adopt and apply a policy designed to maximise its own commercial interests.
- AW was not required to consider matters other than this consideration.
- His Honour concluded that, although it was unnecessary to decide, the decision was a decision of an administrative character made under an enactment and was therefore reviewable.

### Quote

"When a statute confers a discretionary power which is capable of affecting rights or interests, the identify and nature of the repository of the power may be a factor to be taken into account in deciding what are intended to be matters that must necessarily, or might properly, be considered in decision making or whether it is intended that the power is at large."

(Gibbs CJ at [11]).

### Full Text

Full text is available here: <http://www6.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/2003/35.html>

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