

**From:** Craig Spagnol [REDACTED]  
**Sent:** Tuesday, 4 December 2018 12:20 PM  
**To:** Martin, Jaime  
**Cc:** Black, Susannah; Hatfield, David  
**Subject:** RE: Agility Logistics collective bargaining notification (CB10000459) - consultation process update [DLM=For-Official-Use-Only]

Hi Jaime,

My responses to your email of 23 November 2018 follow. Your questions and comments are in blue. Agility consents to these comments being on the public record.

To assist our consideration of this matter, it would be useful if Agility Logistics could also respond to the following issues:

1. It has been suggested that under the **Tasmanian Freight Equalisation Scheme (TFE Scheme)** Tasmanian exporters already receive financial assistance for shipping costs incurred. As such, once freight rates are adjusted for rebates under the TFE Scheme, Tasmanian exporters do not incur higher freight rates than mainland fruit and vegetable exporters.
  - a) We would appreciate Agility Logistics' response to this issue, including further background information on the operation of the TFE Scheme.
  - b) Are you able to provide specific examples of freight rates for refrigerated shipping containers departing Tasmanian ports compared to mainland ports, both before and after the TFE Scheme is applied.

Whilst the TFES scheme extension was successfully lobbied and implemented to assist Tasmanian exporters in securing a better freight position for trading internationally, this is in place to compensate for the high costs of Bass Strait. The support under the TFES scheme assists Tasmanian exporters in so much as a fixed amount of AUD700 for 20' container can be claimed by an Australian registered business shipping goods that tranship northbound to a mainland port. For a number of years the Tasmanian trading community were without any direct shipping to international ports and therefore were burdened with the cost of transhipment over Bass Strait – this inhibited exports and added significant cost to the model to successfully compete in export markets. The extension of the TFES has allowed exporters the ability to re-enter international markets – however it should not be stated that Tasmanian exporters “do not incur higher freight rates than mainland fruit and vegetable exporters”. This does not take into account the cost (and loss in time) to reposition equipment and hold equipment (in particular for refrigerated goods). It is estimated that there is a cost impost of approx.. USD300 above what would be termed mainland export freight rates to accommodate these costs. Further, the lack of international shipping direct in Tasmania adds additional transit time via Melbourne and as such there is a “cost” in time to market to be considered as well. The fact that the reimbursement under the TFES is fixed means that increases in costs do not get taken into account.

Agility cannot provide examples of rates from before and after the TFES scheme and note that such an exercise would not provide an accurate portrayal of the situation – freight rates (as do commodity rates) change with shifting trade patterns and whilst 2018 may look like a reasonable pricing position, 2019 may be different with droughts affecting grain uplifts of the East Coast of Australia.

2. Concerns have been raised that the proposed collective bargaining conduct will lead to the consolidation of all freight contracts on a single shipping line. Concerns have also been raised that the notification contemplates other fruit and vegetable exporters being encouraged to join the group in the future, which may ultimately reduce competition in the supply of shipping services to Tasmania.
  - a) We would appreciate Agility Logistics' response to these concerns.

- b) We would also appreciate if you could clarify whether the current notification contemplates that carrot and onion exporters (only) will be invited to join the collective bargaining group in the future, or whether other fruit and vegetable exporters will also be invited to participate in the group.

Due to the nature of the export markets, it would be highly unlikely to consolidate all of the freight contracts onto one line. Accordingly, we reject the idea that there is a risk to the number of shipping services to Tasmania. Carrots and onions make up two components of the fruit and vegetable commodity group exported from Tasmania (which also includes potatoes, beans, cherries and apples). Other exported commodities include but are not limited to meat, fish and seafood, dairy products, wood and paper products, zinc, aluminium and ores and concentrates. Whilst exports of carrots and onions are considerable, they are by no means the largest moved cargo in the state. Further, no one shipping line services all Tasmanian ports and it is not likely that any one shipping line would be able to provide enough containers at any one time to service all commodities.

The current notification is for three carrot and onion exporters out of six in Tasmania – the other three companies opted not to be a part of the group and it is envisioned that they will not seek to join the group for this season. There is nothing to prevent the two other exporters joining the group at another time. The Tasmanian Fruit and Vegetable Export Facilitation Group is considering carrots and onions as a test case to determine if the ability for a third party to negotiate with volume is a suitable model for potential like models in the future.

- 3. We would appreciate further information about how the proposed collective bargaining will work in practice, including:
  - a) The extent to which exporters currently have and/or will require specifically tailored contracts with shipping companies, including in relation to non-price terms and conditions

Exporters can contract directly with shipping lines or via freight forwarding companies such as Agility. Prior to the application, one member of the group was represented by Agility and the other two dealt directly with the shipping lines. Non-price terms and conditions could be negotiated if the opportunity arose but currently negotiations are limited to volume rates.

- b) Please clarify whether Agility Logistics proposes to negotiate with all of the shipping lines listed on the collective bargaining notification each year, and how exporters will select which shipping company to use? Please outline what will happen if one of the exporters currently participating in the collective bargaining group is unhappy with the freight rates, or other non-price terms and conditions, negotiated by Agility Logistics.

Yes, Agility has already commenced negotiations (during the immunity period) on behalf of the group and all shipping lines have been approached. All of the group members have committed to the process – one removing itself from the process may or may not affect the modelling for the other parties – we will not know until such a situation occurs. Agility notes that no member of the group is compelled to remain in the group. It is highly unlikely that only one shipping line would be selected as there are a number of factors which need to be taken into consideration – examples include the availability of the services at port of origin and destination, the servicing of different lanes and the difference in rates per lane.

- c) What is the typical length of shipping contracts for carrot and onion exporters?

Contracts are seasonal and typically for six months.

- d) How frequently do exporters typically switch between shipping companies and how will this change under the proposed collective bargaining conduct.

The switch between shipping lines is not usually based on rates but moreso on space and equipment capabilities or if routing models change. The process of shipping to international markets is a fluid exercise as contracts can change quickly between sellers and buyers and redirection of goods is common.

4. To the extent that Agility Logistics is in a position to comment, can you please explain the extent to which shipping companies can substitute different cargo - that is, is it possible for shipping lines to switch from onions and carrots to other refrigerated cargo? What lead times would be involved?

Agility is not in a position to make a comment.

Please let me know if you require further information.

Regards

**Craig Spagnol**  
Legal Counsel  
**Agility Logistics**



**Melbourne, AUSTRALIA**

direct: + [REDACTED]  
mobile: + [REDACTED]  
reception: +613 9339 0888  
fax: +613 9339 0897  
IP phone [REDACTED]  
[www.agility.com](http://www.agility.com)



### Verified Gross Mass

Learn more about the new SOLAS regulations that will be effective 1st of July and will require Verified Gross Mass (VGM) information to be available for each container.

---

**From:** Martin, Jaime  
**Sent:** Friday, 23 November 2018 2:19 PM  
**To:** Craig Spagnol  
**Cc:** Dwyer, Ellie; Hatfield, David; Black, Susannah  
**Subject:** Agility Logistics collective bargaining notification (CB10000459) - consultation process update [DLM=For-Official-Use-Only]

Dear Craig

I refer to our email below which invites your response to the public submissions received from interested parties to date. As foreshadowed, the ACCC has received two additional submissions in relation to Agility Logistics' collective bargaining notification. However, at this time the parties have requested that their submissions be excluded from the public register. While we are not in a position to provide copies of these submissions, we have summarised the issues raised in these submissions (please see below).

To assist our consideration of this matter, it would be useful if Agility Logistics could also respond to the following issues:

1. It has been suggested that under the Tasmanian Freight Equalisation Scheme (**TFE Scheme**) Tasmanian exporters already receive financial assistance for shipping costs incurred. As such, once freight rates are adjusted for rebates under the TFE Scheme, Tasmanian exporters do not incur higher freight rates than mainland fruit and vegetable exporters.
  - a) We would appreciate Agility Logistics' response to this issue, including further background information on the operation of the TFE Scheme.
  - b) Are you able to provide specific examples of freight rates for refrigerated shipping containers departing Tasmanian ports compared to mainland ports, both before and after the TFE Scheme is applied.
  
2. Concerns have been raised that the proposed collective bargaining conduct will lead to the consolidation of all freight contracts on a single shipping line. Concerns have also been raised that the notification contemplates other fruit and vegetable exporters being encouraged to join the group in the future, which may ultimately reduce competition in the supply of shipping services to Tasmania.
  - a) We would appreciate Agility Logistics' response to these concerns.
  - b) We would also appreciate if you could clarify whether the current notification contemplates that carrot and onion exporters (only) will be invited to join the collective bargaining group in the future, or whether other fruit and vegetable exporters will also be invited to participate in the group.
  
3. We would appreciate further information about how the proposed collective bargaining will work in practice, including:
  - a) The extent to which exporters currently have and/or will require specifically tailored contracts with shipping companies, including in relation to non-price terms and conditions
  
  - b) Please clarify whether Agility Logistics proposes to negotiate with all of the shipping lines listed on the collective bargaining notification each year, and how exporters will select which shipping company to use? Please outline what will happen if one of the exporters currently participating in the collective bargaining group is unhappy with the freight rates, or other non-price terms and conditions, negotiated by Agility Logistics.
  
  - c) What is the typical length of shipping contracts for carrot and onion exporters?
  
  - d) How frequently do exporters typically switch between shipping companies and how will this change under the proposed collective bargaining conduct.
  
4. To the extent that Agility Logistics is in a position to comment, can you please explain the extent to which shipping companies can substitute different cargo - that is, is it possible for shipping lines to switch from onions and carrots to other refrigerated cargo? What lead times would be involved?

We acknowledge that this may impact the timing of any submission that Agility Logistics might currently be preparing. Susie Black or I will be in contact early next week to discuss these issues with you.

Regards  
Jaime

**Jaime Martin**  
Assistant Director | Adjudication  
**Australian Competition & Consumer Commission**  
Level 17 | 2 Lonsdale Street, Melbourne, 3000 | <http://www.accc.gov.au>  
T: +61 03 9290 1477 | F: +61 02 6243 1211

[Part time: Tues – Fri.]

The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.



Please consider the environment before printing this email

---

**From:** Martin, Jaime  
**Sent:** Tuesday, 20 November 2018 4:10 PM  
**To:** [REDACTED]  
**Cc:** Dwyer, Ellie [REDACTED]; Black, Susannah [REDACTED]  
**Subject:** HPE CM: Agility Logistics collective bargaining notification (CB10000459) - consultation process update [DLM=For-Official-Use-Only]

Dear Craig

As you might recall, the closing date for interested parties to provide a submission in relation to your collective bargaining notification was last Friday, 16 November.

To date, the ACCC has received two submissions from interested parties – namely, Link Logistics and OOCL (Australia) Pty Ltd – please find attached. All public submissions are also available from the ACCC's [Public register](#) for this matter.

The ACCC has also been advised that it can expect to receive a small number of late submissions in the next day or so. The ACCC will be in contact to provide an update about this and a copy of any further public submissions it receives as soon as possible after receipt.

The ACCC requests Agility Logistics' response to the issues raised in these submissions by **Monday, 26 November 2018**. We appreciate this timeframe is relatively short. Please let me know if this date proves problematic.

Please contact me if you have any questions.

Regards  
Jaime

**Jaime Martin**  
Assistant Director | Adjudication  
**Australian Competition & Consumer Commission**  
Level 17 | 2 Lonsdale Street, Melbourne, 3000 | <http://www.accc.gov.au>  
T: +61 03 9290 1477 | F: +61 02 6243 1211

[Part time: Tues – Fri.]

The ACCC acknowledges the traditional owners and custodians of Country throughout

Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.



Please consider the environment before printing this email