

COPY

Mr Scott Gregson
General Manager, Adjudication
Australian Competition & Consumer Commission
470 Northbourne Avenue
Dickson ACT 2602

5 April 2005

Dear Mr Gregson

Dalrymple Bay Coal Terminal Pty Limited - Applications for authorisation

We act for Dalrymple Bay Coal Terminal Pty Limited ("DBCTPL") in this matter. DBCTPL operates the Dalrymple Bay coal loading terminal ("Terminal") at the Port of Hay Point, South of Mackay in Queensland. DBCTPL operates the Terminal under a contract with the lessee of the Terminal, Prime Infrastructure.

The Terminal is Queensland's largest coal export terminal and provides coal handling services to export coal producers in the Bowen Basin region of Queensland.

1 Applications for authorisation

DBCTPL applies for authorisation pursuant to sub-sections 88(1) and 88(7) of the *Trade Practices Act 1974* (Cth) ("TPA") for the making of, or giving effect to, any contract, arrangement or understanding involving DBCTPL and any producer of coal for export through the Terminal, or exporter or exporters of coal through the Terminal (whether they are shareholders in DBCTPL or not) or any other party, which relates to or is in any way associated with the proposed queue management system that is described in the attached supporting submission and which may constitute:

- exclusionary provisions within the meaning of section 45 of the TPA;
- a provision having the effect of substantially lessening competition within the meaning of section 45 of the TPA; and
- a provision to which sections 45D, 45DA or 45DB of the TPA might apply.

Please also note that DBCTPL is seeking an interim authorisation.

We enclose:

- (a) a non-confidential supporting submission to the Commission;

- (b) a confidential supporting submission to the Commission containing commercially sensitive information over which confidentiality is sought;
- (c) Forms A, B and D, the application forms prescribed by regulation for authorisation of exclusionary provisions, agreements affecting competition and boycotts; and
- (d) a cheque for \$10,500.

2 Confidentiality

The supporting submission contains some commercially sensitive and confidential information. Pursuant to section 89(5) of the TPA, DBCTPL requests that the Commission exercises its power under section 89(5A) to exclude this information from the register kept by the Commission pursuant to section 89(3).

Accordingly, for the Commission's convenience we have provided a non-confidential version of the supporting submission from which the confidential material referred to above has been deleted and marked "[Confidential – information deleted]".

Should you have any questions relation to this application, please do not hesitate to contact me.

Yours sincerely



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