



Australian
Competition &
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By email

21 December 2007

Mr Dave Poddar
Partner
Mallesons Stephen Jaques
Level 61, Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000

Dear Mr Poddar

The various applications for authorisation in relation to capacity balancing systems at the Port of Newcastle

I refer to the media release issued by Port Waratah Coal Services (PWCS) on 20 December 2007 following the Australian Competition and Consumer Commission's (ACCC) decision to grant interim authorisation to the applications for authorisation of the Capacity Balancing Scheme (CBS) lodged by the Newcastle Port Corporation and Donaldson Coal.

I note that the PWCS Board has decided to extend the CBS into 2008. PWCS' media release refers to the extended CBS being active for twelve months from 1 January 2008 to 31 December 2008 while Hunter Valley coal producers, coal chain service providers and the NSW Government work towards developing a medium-term allocation solution by mid 2008.

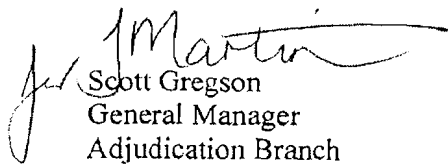
In these circumstances, I wanted to reiterate that interim authorisation protects the arrangements for which authorisation is sought from legal action under the *Trade Practices Act 1974* (the Act) while the ACCC considers and evaluates the merits of applications for authorisation.

The ACCC can review the interim authorisation at any time. As previously advised, the ACCC expects to issue a draft determination in relation to the Newcastle Port Corporation and Donaldson Coal applications for authorisation in February 2008.

Finally, given the industry plans outlined within media releases by PWCS and the Hon. Joe Tripodi MP to try and develop a new medium term system by mid 2008, could you please provide an update in due course about the status of the applications for authorisation of the proposed Vessel Queue Management System lodged by Pacific National, QR and PWCS on 16 November 2007.

A copy of this letter has been placed on the public register. If you have any questions about the issues raised in this letter, please contact Jaime Martin on (03) 9290 1477.

Yours sincerely


Scott Gregson
General Manager
Adjudication Branch