



OUR REF: A1171073
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2 November 2009

Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601
By Email: adjudication@accc.gov.au

Dear Sir

Draft determination – Australian Amalgamated Terminals Pty Limited no. A91141, A91142, A91181 & A91182

I refer to the draft determination in respect of the above applications for authorisation dated 19 October 2009. Port of Brisbane Corporation Limited has several concerns with the terms of the draft determination.

Firstly, the table which appears on page 24 of the draft determination is, in the Corporation's view, misleading. It does not accurately compare charges levied by all port authorities and transport regulators for each of the relevant ports. Whilst the table includes "harbour dues" and "port security charges" levied by the ports of Brisbane and Townsville, it does not include corresponding charges levied at other ports. Whilst such charges are known by a variety of names, they are all levied in respect of port and maritime infrastructure including channels, wharves, berths and navigational aids. Such charges include "berthage charges" at Townsville, "navigation services charges" at Port Kembla and Sydney, "channel fees" at Melbourne, "harbour service charges" and "navigation service charges" at Adelaide, "tonnage charges" at Fremantle and "berthage charges" and "port dues" at Darwin.

The differing charging regimes applied at the various ports make direct comparison of port charges difficult. The ACCC's analysis has only concluded that Brisbane is the dearest port to import vehicles into because it has failed to take into account corresponding charges at other ports. This is not a fair and balanced assessment of the costs of importing vehicles.

In the Corporation's view, the ACCC could more accurately compare the costs of importing vehicles at AAT's various operations by removing the line items for "harbour dues" and "port security charges" or by otherwise including all relevant charges, including those outlined above. However, given the complex and differing ways in which such charges are calculated and levied, in the Corporation's view, if the ACCC was minded to include such a table, the only accurate way of comparing charges would be by removing the line items for "harbour dues" and "port security charges".

Secondly, the ACCC's determination appears premised on a belief that the sole shareholders of AAT are DP World and Asciano (see paragraph 1.16). Whilst it is a matter for AAT, the ACCC will appreciate that the present shareholding of AAT differs from that when it was formed. As the Corporation understands it, the present shareholders of AAT include a consortium of, amongst others, shipping lines and companies involved in stevedoring and PDI operations. Obviously, the interaction of the shareholders,

and their incentive to collude to extract monopoly prices, is constrained by, amongst other things, the shipping line shareholders within AAT.

Lastly, the table on page 22 in respect of price increases at Port of Brisbane (and the ACCC's analysis at paragraph 4.69) does not fairly explain the reasoning behind those increases. In the Corporation's view, the ACCC should in its determination explain that the increase in the FAC is attributable to increases in rent charged to AAT which is itself directly attributable to increases in the market value of the land (as AAT's rent is determined as a percentage of the market value of the land). To leave such large increases unexplained tends to support uninformed views that the increases are the result of monopolist action by AAT or the Corporation. However, for the reasons outlined, this is clearly not correct.

I trust that the ACCC will amend its draft determination to correct these potential deficiencies. The first matter raised is of particular concern to the Corporation and has the potential to damage its business. The Corporation has worked extensively in recent times to demonstrate to car manufacturers, shipping lines and importers of the cost savings available by importing vehicles at the Port of Brisbane. The table published by the ACCC could potentially result in significant volumes of imports being moved from the Port of Brisbane and consequent losses and damage.

If you have any queries, please contact Mr Mark Neander on (07) 3258 4772.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jeff Coleman', written in a cursive style.

Jeff Coleman
Chief Executive Officer