



**Australian
Competition &
Consumer
Commission**

Our Ref: C2009/1097
Contact Officer: Sharon Clancy
Contact Phone: (02) 6243 1217

GPO Box 3131
Canberra ACT 2601
23 Marcus Clarke Street
Canberra ACT 2601
tel: (02) 6243 1111
fax: (02) 6243 1199
www.accc.gov.au

3 December 2009

Mr Craig Faulkner
Chief Executive Officer
Australian Amalgamated Terminals Pty Limited
PO Box 5129
Garden City VIC 3207

By email: craig.faulkner@aat.auz.biz, greg.kneebone@aat.auz.biz, avery@gtlaw.com.au

Dear Mr Faulkner

Australian Amalgamated Terminals Pty Limited (AAT) - applications for authorisation A91141-2 & A91181-2 - final determination

The Australian Competition and Consumer Commission (the ACCC) has issued a determination in respect of the application for authorisation lodged by AAT on 10 June 2009 and 5 August 2009.

A copy of the ACCC's determination is enclosed, including a summary of its reasons. For the reasons set out in its determination, the ACCC has decided to grant conditional authorisation to AAT, P&O Wharf Management Pty Limited and Plzen Pty Limited to give effect to section 2 of the Shareholders Agreement, together with the other provisions of the Shareholders Agreement and the Constitution of AAT, being provisions that establish and constitute the AAT joint venture, but only to the extent that those provisions allow the parties to engage in certain conduct at AAT's terminals. Authorisation is granted until 31 December 2019. Broadly the conditions:

- provide a mechanism for stevedores to seek access to AAT's terminals
- impose a process for independent review of AAT's price increases to end-users
- require AAT to provide end-users with a dispute resolution process for non-price disputes.

Application for review

Pursuant to section 101 of the *Trade Practices Act 1974*, a person dissatisfied with this determination may apply to the Australian Competition Tribunal for its review. An application for review must be made within 21 days of the date of this determination; that is, on or before 24 December 2009. If no application to review is lodged by this date, the ACCC's determination will come into force on 25 December 2009.

An application for review of the ACCC's determination should be lodged directly with the Australian Competition Tribunal. The Australian Competition Tribunal is a separate body from the ACCC and is located within the Federal Court of Australia.

For further information about the process involved in reviewing decisions in the Australian Competition Tribunal please refer to the tribunal's website located at <http://www.competitiontribunal.gov.au/>.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Sharon Clancy on (02) 6243 1217.

Yours sincerely

A handwritten signature in black ink, appearing to be 'R Chadwick', with a long horizontal line extending to the right.

Dr Richard Chadwick
General Manager
Adjudication Branch