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July 27, 2009

Ms Joanne Palisi  
Director  
Adjudication Branch  
Australian Competition & Consumer Commission  
GPO Box 3131  
Canberra ACT 2601

Via email: [sharon.clancy@acc.gov.au](mailto:sharon.clancy@acc.gov.au)

Dear Director

**Re: AAT P/L (AAT –  
Application for Authorisation A91141 + A91142  
Your Ref: C2009/1097**

This Submission is on behalf of affected members of the Australian Steel Association Inc (ASA) in response to the abovementioned applications by AAT P/L.

The ASA is an interested party and appreciates this opportunity to provide its response to the AAT application and more specifically AAT's claimed public benefits.

ASA member companies involved with having to deal with the AAT operations are particularly concerned at some of the assertions made in the application relating to AAT's promotion of "efficiencies".

Crucially, however, this Submission is only in response to what is termed "general cargo", "bulk goods" or "break-bulk cargo" and not in response to the automotive stevedoring operations or market.

Having surveyed ASA member companies affected by the AAT operations the ASA considers there may be compelling reasons for the Commission to require enforceable Undertakings from AAT so as to ensure its future activities do not result in any lessening of competition.

The ASA notes that AAT "considers the application may be unnecessary because its activities do (not or) are unlikely to substantially lessen competition".

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Whilst the AAT application has a clear emphasis on its operations for loading and unloading automotive cargo, the ASA, in respect to the AAT general cargo operations, takes issue with the applicant's assertions on page 33, namely:-

“In addition, as noted in Section 5 above, there are several alternative and potential alternative terminals in each Port available for loading and unloading automotive and general cargo.”

“Moreover, all of the public benefits outlined under Section 8.3 above are more likely to be achieved under AAT than under any of the counterfactuals outlined above.”

The evidential experience of ASA member companies at AAT's Brisbane operations, in our view, illustrate the valid concerns ASA member companies have should the Commission grant AAT unconditional authorisation.

Para 5.3 of the application concludes with the Statement:

“General cargo may also be stevedored at other terminals in the Port of Brisbane, including Pinkenba, owned by PBC, and also PBC's GP2 Terminal, currently under construction – recently OneSteel hired the Pinkenba facility at which it berthed and unloaded a vessel that it had chartered.”

The reality, from ASA member companies' experience, is that the only viable alternative to Fisherman Islands is Gladstone, some 5 hours from Brisbane and with obvious transport costs being far greater than those “ex Brisbane.”

The Pinkensa facility, whilst recently hired by OneSteel and presumed to be an alternative for steel cargo was initially a dedicated facility for the bulk loading of sugar. ASA members claim that it lacks the general wharf facilities required for the discharge of steel cargo and that there are limitations on the use of necessary forklifts, etc.

The general purpose Berth GP2 “currently under construction” is understood to be for container cargo and not, break bulk cargo needed for many steel products.

More generally, the experience of ASA member companies from the commencement of AAT's Brisbane facility is that it has resulted in less available berthing space for vessels which has caused periods of Berth congestion.

This in turn has impacted on service levels and additional, but avoidable, costs, both in demurrage (storage) and extra sorting costs.



The ASA also notes that whilst AAT claims its operating principles provide for non-discriminatory, open access to all licensed stevedores and other users wanting to do business at an AAT terminal, there is no evidence of any new stevedores operating at an AAT terminal and on balance, steel break bulk cargo is accorded a much lower priority than automobiles or containers.

### **ASA Member Companies**

Member companies include both importers of intermediate steel products, and service providers such as logistics, transport and shipping companies.

Steel imports total around 2.8 Million Tonnes annually and the volume importers are ASA members.

Most steel imports are destined for discharge at the three Eastern Board Ports namely:

- Brisbane
- Sydney
- Melbourne

Fremantle, a non AAT operation, is the other major Port destination.

The steel products in question are described as intermediate products as they mostly require further value adding prior to being inputs for manufacturing, construction, mining, rural applications.

Generally, these steel products comprise two categories, namely:

- Flat Products
- Long Products

Australia has only one flat steel producer, namely BlueScope Steel; and only one long products steel producer, namely OneSteel.

Imports of steel products therefore provide the only discipline of market competition for most steel users in Australia and in respect of the 2.8 Million Tonnes of annual imports, around one third are types not produced in Australia.

The importation of steel products therefore is a critical element in any lessening of competition in the relevant market and post importation costs, either directly or indirectly, impact on the price competitiveness of those steel products.

Historically, steel product imports were all break bulk cargo and whilst there has been a trend to containerized cargo, some steel product imports will only remain break bulk cargos.



It is also considered relevant to note that compared to the present annual import volume of around 2.8 Million Tonnes, the annual volume in say year 1997, according to a Federal Department of Industry Report (1998) was 1.23 Million Tonnes, and prior to then, less than a Million Tonnes p.a.

## **Types of Steel Products**

### Flat Products

- Produced by BlueScope
  
- At Port Kembla Steelworks
  - Plate
  - Sheet Steel in Coil form

### Long Products

- Produced by OneSteel
  
- At Whyalla Steelworks
  - Structural; Beams, Columns, Channels
  - Rail
  
- At Laverton, Rooty Hill Works
  - Steel Bars, Wire
  - Concrete Products (Deformed Bar)
  
- At Newcastle, Brisbane Pipe Mills
  - Steel Pipes and Tubes

## **COMMENT**

Due to their physical characteristics some of the above steel products, when imported, can only be break bulk cargo.

### **How it works**

- (1) Steel importing company (consignee) contracts with a shipping company to transport goods from place of export to designated Australian Port of discharge.
  
- (2) Shipping company contracts with stevedoring company to unload ships cargo onto wharf/terminal precinct.
  
- (3) Stevedoring company contracts with terminal operator to sort, stack, store and deliver cargo to consignee's representatives.



### **“Other Detail”**

The consignee, (steel importer) has bundled various steel retailer orders for the same type of steel goods into the one shipment.

This has to be “sorted” to facilitate delivery ex terminal and “stacked” accordingly.

Many steel product imports need to be stored under cover whilst awaiting delivery.

Terminal only allows three “free” days storage under its facility access provisions until demurrage charges are incurred some of which are highly questionable.

Lack of accountability, lack of necessary equipment to enable deliveries and damage to steel goods during these processes, are every day occurrences resulting in “additional costs”.

### **Survey of “Affected” Members**

(1) As an affected stakeholder, the ASA sought input from its member companies for purposes of identifying which key issues were impacting on their businesses as a result of the operation of the AAT joint venture and to consider what appropriate measures could be put in place to protect the interests of ASA member companies and their “downstream” customers.

With regard to formulating this ASA response and submission, members responses have been captured by both phone interview and written survey.

### **(2) Result**

ASA member companies raised a number of issues with regard to the use of Ports and the impact of the AAT joint venture on their business operations.

### **(3) Key Responses included:**

#### **(3) (i) Increased Costs**

- Port charges have increased
- Port of Brisbane, and thus AAT, increased the rent by 130% in year 2008.
- On account of berth waiting times shipping costs generally have been increased.
- Increased costs have negatively impacted as a result of the AAT joint venture with the reduction from two terminals to one.
- These increased costs have been open ended.



- (3) (ii) Service levels have been affected
- Inadequate shed space: - places cargo at risk of damage from the elements.
  - Lack of equipment at port and attention to sorting to mark: - impact both on the service levels as well as costs (both in demurrage and in additional sorting costs regularly incurred by transport carriers.). This is despite a 'sort to mark' pricing extra being built into the port charges.
  - Port selection flexibility has been inhibited with several members indicating that the service impacts on their business had necessitated changing ports used in order to manage the situation.
  - Low priority: - car carrier business is perceived to have a higher priority at the expense of break bulk cargo. (The present situation).
  - Block stacking leaves insufficient days to clear with demurrage charges being non negotiable despite the cause being port driven.
- (3) (iii) Product affected
- Damage:- a noted increase in product was reported by ASA members
  - To mitigate these factors ASA members have sought to change from previously preferred Ports, and shifted cargo from break bulk to containerized. Apart from the noted increase in port charges, ASA members indicated damage, demurrage and sorting to mark costs added in the order of 3-5% in additional on ground costs in what is already a low margin business. In some instances demurrage charges alone far exceeded these figures.

These on ground costs are in addition to the open-ended costs incurred by the shipping lines.

### **Recommendations**

The ASA acknowledges that basic issues such as product damage and service levels are challenges that require ongoing attention from all stake holders.

Ultimately, however, the terminal operator needs to be motivated for ensuring that there is no lessening of competition or anti-competitive behavior in the form of increased costs and deteriorating service levels.

As such the ASA requests the Commission to consider implementation of a number of Measures necessary for ensuring the AAT joint ventures claimed efficiencies and public benefit are not overridden by the behavior experienced by ASA member companies.

Specifically the ASA request the Commission to consider the following recommendations: -



(1) Price Monitoring

An independent monitoring of both direct and indirect Port/Terminal charges be implemented on a regular, say six monthly basis.

An immediate review of the “age-old” three day free storage provision prior to open-ended demurrage charges being applied, which, in some cases, are punitive measures for actions outside the control of consignees.

(2) Review of the “real” Port/Terminal facility capabilities including the establishment of service level monitoring

With the increase in demurrage charges (largely attributable to AAT controlled issues) there needs to be,

**Firstly:**

- A monitoring of demurrage and other ancillary charges imposed on consignees.

**Secondly:**

- A review of the time “allowed” to clear Terminal cargo in light of Port congestion.

**And Finally:**

Whilst it is always preferred that prompt resolution of these matters is quickly achieved by the affected parties, it is requested that consideration be given to an independent review of demurrage claims and other costs in light of the non-negotiable stance presently adopted on these matters.

(3) Monitoring of Ship Berthing Times

**CONCLUSION**

The ASA welcomes the opportunity to provide any further information the Commission may consider it requires in relation to this response and is prepared to meet with the Commission should it be necessary.

Thank you for your consideration.

Regards

**M J Howard**  
**CEO**

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