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Our ref LXW:EMA:1007215



L A W Y E R S

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By email: Richard.chadwick@accc.gov.au; sharon.clancy@accc.gov.au

Richard Chadwick / Sharon Clancy
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Dear Mr Chadwick and Ms Clancy

Application for minor variation to AAT conditions

We refer to the authorisation of Australian Amalgamated Terminals Pty Limited (**AAT**) granted subject to conditions (**Conditions**) on 3 December 2009, and in force from 25 December 2009.

Pursuant to clause 2.2.1 of the Conditions, AAT is required to identify a proposed Independent Price Expert and provide written notice to the ACCC of the proposed appointment within 20 Business Days of the Authorisation.

AAT has taken substantial steps to identify such an expert, of which we have kept the ACCC informed. Initially, AAT engaged in discussions with a large accounting firm with which it in good faith believed there were no conflicts and would meet the requirements under the terms of the authorisation. However, AAT subsequently learned that the ACCC considered that the selected firm was unlikely to satisfy the ACCC's requirements. Accordingly, AAT has commenced looking more broadly, and has commenced approached other firms that it considered may be acceptable to the ACCC. Given the time of year, holiday schedules and the Public Holiday, it was difficult to pursue these enquiries. However, AAT did have discussions with a partner at another firm, but has learned that another partner in that firm is appointed as an independent auditor in relation to the Patrick/Toll undertakings. Accordingly, AAT is continuing to make further enquiries.

We note that AAT does not propose to increase any tariffs until July 2010.

In light of the unforeseen difficulties in locating a suitable proposed Independent Price Expert to put forward to the ACCC, particularly given the time of year, AAT requests a minor variation to the authorisation to enable AAT sufficient time to secure an appropriate Independent Price Expert. Please see the accompanying application form FA.

In considering the application, AAT particularly asks the Commission to take account of the fact that AAT does not propose to increase any tariffs until July 2010. Accordingly, the requested extension would not have any consequences for the role or function of the Independent Price Expert under the Terms of the Conditions.

Please let me know if you have any further questions.

Yours sincerely



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