



**Australian
Competition &
Consumer
Commission**

Our Ref: C2010//635-03
Contact Officer: Gareth Jamieson
Contact Phone: (02) 6243 4980

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

10 November 2010

Peter Strickland
Senior Associate
Competition & Market Regulation
Freehills
By email: Peter.Strickland@freehills.com

Dear Mr Strickland

**DP World Australia Limited & Patrick Stevedores Operations Pty Limited applications
authorisation A91238-A91240 – final determination**

The Australian Competition and Consumer Commission (the ACCC) has issued a determination in respect of the application for authorisation lodged by DP World Australia Limited and Patrick Stevedores Operations Pty Ltd (**the Applicants**) on 2 July 2010.

A copy of the ACCC's determination is attached, including a summary of its reasons. For the reasons set out in its determination, the ACCC has decided to grant authorisation for five years.

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 1 December 2010. If no application to review is lodged by this date, the ACCC's determination will come into force on 2 December 2010.

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/>.

When authorisations expire

Towards the end of the period of authorisation, the holders of an authorisation may either:

- apply for a new authorisation for the conduct or apply to revoke and substitute the existing authorisation or

- stop the conduct (unless they consider that the conduct no longer risks breaching the Act).

Upon receipt of an application for 'reauthorisation', the ACCC will assess the arrangements afresh – namely, it conducts a public consultation process to help assess the public benefits and public detriments that are likely to result from the arrangements.

While the ACCC will consider any application for 'reauthorisation' based on the circumstances at that time, in many cases, this assessment can be informed by whether the proposed public benefits and potential detriments were realised during the previous term of authorisation.

Should the Applicants consider it likely that they will seek 'reauthorisation' of the proposed arrangement to give preferential treatment to truck carriers engaging in 'dual runs' at the Port of Fremantle in the future, the ACCC expects the Applicants to collect evidence of the public benefit and detriment outcomes produced by the proposed arrangement during the period of authorisation. For example, as noted in the determination, the ACCC considers that any data recorded by 1-Stop for the purpose of assessing the success and impact of the proposed arrangement over time should be provided to the ACCC in support of any application for 'reauthorisation'.

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 Gareth Jamieson on (02) 6243 4980.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch