



ALLIED
CONTAINER SERVICES P/L
ABN 15 050 024 156

MELBOURNE

Lot 102, Olympia Street, Tottenham VIC 3012 Australia
PO Box 537, Altona North VIC 3025 Australia

Phone: (03) 9314 1977 Fax: (03) 9314 8838
Email: operations@alliedcontainers.com.au

David Hatfield
Australian Competition and Consumer Commission
GPO Box 520
Melbourne VIC 3001

22 July 2011

Re: Submission on Exclusive Dealing Notification N95450-N95456

Dear Sir,

I am writing in response to your invitation to provide comments on relevant submissions. Allied Container Services Pty Ltd is very much a part of the issue which in my humble opinion should not really be an issue.

The ACCC was consulted on this not because we thought there was an issue with Exclusive Dealings or because we thought we were breaking laws, as Toll's have suggested. We had, previously and extensively sought legal advice and on the basis of that advice we proceeded. After all a precedent has already been set by the terminals who have operated in the same way for some time. Also on the same basis the terminals are now using 1-Stop, and 1-Stop is a provider on a similar level as Containerchain. Both Patricks and P & O have elected to use 1-Stop but they too have gone through a process of elimination and ended up with 1-Stop where as we decided to use Containerchain. We sought ACCC's acknowledgement because we wanted to make sure that all angles were covered. So I am at a bit of a loss why some of the submissions are just using this as a means to complain just because they disagree but not on any particular legal point, simply because they don't want to do things this way.

The question of impact of Containerchain on Allied's capacity has been raised and from my point of view I can not see how it will affect capacity. This was deliberately set up as a more flexible notification system as opposed to a rigid booking system that the terminals established some 20 years ago. The reason we decided to introduce this system was in response to the queues and congestion complaints from transport operators and in turn this triggered Victoria Police and Vic Roads. Previously we had no advance warning of when trucks would be arriving or what they would be bringing or picking up. We would know only when they turned up. Our holding capacity stays the same and is published in figures used by the Port of Melbourne. Allied has a holding capacity of approximately 6000 TEU and that figure does not change. The only affect I expect to see and indeed

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what I am looking to see, is on the actual flow of movement. At this point in time most of the transport operators turn up at Allied when their terminal work is completed and they have some spare time. Coincidentally this happens to be the same or at the least very similar for most of them. Consequently we would get swamped in waves depending on the vessel timetables. These are the queues that I am describing. As the transport operators find they have time, they go and pick up their empties or they drop them off. This is one area that the TO's have openly said they are reluctant to relinquish their control. But their control or rather their flexibility has meant chaos to Allied and chaos that they complain about quite loudly. If for instance, my forklift drivers are parked up waiting and then all of a sudden we have trucks turning up from every direction, it means that a queue forms very quickly and the forklifts will be flat out. At this point the transport operators will get annoyed because they can't just drive in and out and they complain to their clients and their clients then complain to the shipping lines about their depot's performance. The shipping line in turn gives the depot a 'please explain' but no matter how much explaining we do it can never be enough. Without having a schedule to know what is coming at us we have no way of controlling it. Many times the complaints made were that there were inadequate forklifts available. The peaks, when they hit, would mean a 1 hour or 2 hour delay to transport but it means the forklifts Allied are working around the clock. When the queues start building up, it is always a 'all hands on deck' rule. Office staff will run out and collect paperwork to pre-book a truck so that they can move quicker. Instead of doing internal work all forklifts are on the road. To date, due to a lack of visibility, this has been our only way of coping with the queues.

Transport operators have pushed for 24/7 opening hours and Allied operated on extended hours for many years. The problem that Allied faces is mainly a financial one. If a transport operator is picking up a container at 12.30am for example, from the terminal and delivering it to an importer for unpacking they will charge that importer for that particular container pick up/delivery with an extra fuel levy attached with a GST component and night shift penalty. Allied will be paid a handling in fee for that container when it turns up. So if we are to open our gates for 3 extra hours or 5 extra hours or even 24/7 we are only going to be paid a handling fee for one particular container that comes in and yet the overhead are going to include, 3 forklift drivers, 3 office staff run at 3 shifts, surveyors and sever double handling, power costs, maintenance and fuel costs. If at 12.30 am Allied receives 50 containers then the income on that night may be in the vicinity of \$750. Compare to that 50 containers moved by a TO in that one period, in fact there is not comparison. The VTA has estimated their cost for accepting Containerchain at 30ml but how is this quantified? How many TO's will this 30K include? On the other hand I can say that for Allied Containers the cost of keeping the depot open 24/7 would increase by 425 % over a single fortnight and that is based on just staff, power and fuel and yet the flow of traffic will be exactly the same as it is now meaning I have no extra income. The TO's that don't make it in by 4 pm(normal closing time at present) may make it in by 6pm(if hours are extended) but my overall daily average of 300 moves per day will not change. Allied does not have a secret slice of the pie. It is what it is. So the extended hours would only benefit the transport operators because it would give them extra flexibility to either return a container at 4pm or return it at 6pm or 3am. From previous experience hours past the 6pm were rarely utilized making it impossible for the Allied to sustain the cost. At one of the relevant meetings the VTA pushed the shipping lines and ECP's to agree to open for extended hours, ie:6am -6pm opening and shipping lines to pay the cost. Allied agreed as we were never opposed to opening, we only wanted cost to be covered. Shipping lines refused to entertain the idea or rather the majority of the shipping

lines refused to entertain the idea. They thought that the ECP's made enough money as it was and if the VTA wanted extra then they should pay extra.

One of the main complaints by the TO's is that presently due to a mismatch of hours they have to store containers in their yards. They also have extensive demurrage costs for untimely returned containers. This is an issue they have been pursuing with the shipping lines for a very long time. So are they going to have to double handle if they have to notify us of their arrival any longer then they will have to if they don't notify us is a question that can't be identified properly. All we are asking for is that are notified that a truck is coming in and stick to that time. TO's will have to spend an extra couple of minutes to make that notification but it will mean that we are aware that truck is coming in and it will be serviced within 30 minutes. No 2 hour waiting. It can only be a win/win situation. They can then plan the rest of their days business. Allied can see what is happening in the day ahead and if the day looks quiet we can schedule that regular forklift maintenance instead of pushing the forklift without a break and having that unscheduled breakdown which then means stunted operation. TO's can book 48 hours in advance or 2 hours in advance and all it takes is a simple log onto the website, a process that takes seconds, to see what times are available. Allied and Containerchain have always maintained that this will be a flexible system. By necessity there has to be some limit to the number of notifications accepted. We have worked out how many trucks we can service comfortably in a 30 minute time frame. If notification are simply coming in on purely advising intent (and it may or may not happen) and it means that those trucks are still going to be lining up in a queue, then there really is not point to it. Nothing would change. The purpose of the notifications is to let the industry know what Allied is capable of servicing and by those means controlling the potential queue building up. IF they just notify and come in and we can't service them then the TO's will be saying that this is proof that the system doesn't work when in fact it is not the system.

Email alerts have started a while ago made possible through Containerchain. One body, Containerchain, was able to receive one email from us and then broadcast to all that are signed up. This gives TO's ability to see that there is congestion at for eg. Allied due to a bulk run. However without any notification system in place the alerts are ignored. In fact I have read in some submissions this used against us, saying how the ECP's are constantly advising of breakdowns. This particular submission is focusing on the breakdowns rather than the benefit of the message. We do that so that the TO's can benefit. If notifications were in place and we can schedule servicing ahead of time, then that break down will be prevented and it gives all a better day.

This brings me to the cost issue. TO's will pass any costs to their clients and so on. This they have already advised to importers. They have advised that they will be charging them for storage, demurrage, and any fees and then they accuse the ECP's for wanting to think with their bank accounts. The cost to us in regard to Containerchain involves IT administration, which is an ongoing monthly maintenance cost, it involves administrative work for one person in container control per every container move. It means restructuring which we are not the happiest to do but are willing to do it for the sake of future advancement. We are going to have to put in an extra person in our 2nd yard and an extra computer. This is cost that we are simply accepting but of course calculating and this is how the fee was achieved.

Allied will have to manage the notifications with responsibility and accountability. VTA has placed great importance on the ECP's being timely so that there is a guarantee that there will be a turnaround within 30 minutes. We seek assurances that they will also stick to the notifications and not turn up outside of those times so that we can maintain the 30 minute intervals. Containerchain

have invested already heavily into the system and we estimated our costs based on our outlay to date and the estimated average monthly cost to maintain the IT side of everything as well as time and administrative cost.

Yours Faithfully

A handwritten signature in black ink, appearing to read 'Rose Toth', with a stylized flourish at the end.

Rose Toth
Administration Manager
Allied Container Services Pty Ltd.