



Australian
Competition &
Consumer
Commission

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14 March 2014

Mr Stephen Kroker
Gadens Lawyers

By email: skroker@vic.gadens.com.au

Dear Mr Kroker

Australian Amalgamated Terminals Pty Limited – Authorisations A91141–A91142 and A91181–A91182 – Operations at proposed redevelopment of Webb Dock West

I refer to your letter of 19 December 2013 concerning the application of conditional authorisations A91141-A91142 and A91181-A91182 (the **Authorisation**) to Australian Amalgamated Terminals Pty Limited's (**AAT**) operations should it be the successful bidder in relation to the Port of Melbourne Corporation's (**POMC**) proposed redevelopment of AAT's existing automotive terminal at Webb Dock West (**WDW**) (the **proposed terminal**).

In your letter, you requested that the ACCC reconsider its view on whether the proposed terminal would be considered a new terminal or an expansion of an existing AAT terminal. The ACCC had previously notified AAT that based on the information available at that time the ACCC considered the proposed terminal would be a new terminal for purposes of the Authorisation and therefore AAT's operations at the proposed terminal would not be covered by the Authorisation.

In response to your request, the ACCC has reviewed the relevant material, including new material provided by AAT. The ACCC accepts the view that the proposed terminal is an expansion of AAT's operations at the existing automotive terminal at WDW (albeit pursuant to a new lease and arrangements with the POMC, including the development of new and upgraded facilities). Accordingly, the ACCC accepts that AAT's operations at the proposed terminal would be within the scope of the conduct for which authorisation was granted by the existing Authorisation. In particular, the ACCC refers to paragraph 4.132 of the Authorisation which is relevant to considering the scope of the conduct for which authorisation was granted, as described in paragraph 5.9 of the Authorisation.

As you are aware, AAT's Authorisation will remain in effect, unless revoked, until the end of 2019. As POMC's lease for the proposed terminal extends a number of years beyond that date, it is open for AAT to seek a new authorisation or a revocation and substitution of its existing Authorisation in relation to its automotive terminal operations, including in relation to the proposed terminal, prior to the expiration of its Authorisation.

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 me on (02) 6243 1132 or Luke Griffin on 02 6243 1114.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized initial 'R' followed by a long horizontal line.

Dr Richard Chadwick
General Manager
Adjudication Branch