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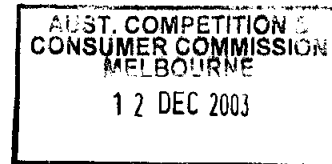
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11 December 2003

Mr David Salisbury
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Australian Competition & Consumer Commission
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Dear David

FILE NO.	
DOC	D03/46832
MARS/PRISM:	

PART X Investigation into the Asia to Australian Discussion Agreement

Thank you for your letter dated 13 November 2003 inviting APSA to participate in the investigation.

As you are aware APSA is an export-oriented organisation and has little experience in the import trades. However APSA would like to offer some comments and a statement on Discussion Agreements generally.

1. Shipping Conferences

Shipping Conferences were first introduced more than a century ago to provide regular, reliable and efficient shipping services in exchange for stable freight rates.

In recent years rates have been anything but stable and this has led to the AADA complaint.

In the last three years, prior to China becoming a huge exporter, import freight rates dropped to levels which were below cost recovery levels.

This situation was created by the poor planning of shipping lines which led to a surplus of shipping space in virtually all trades into and out of Australia.

Shippers have experienced this situation several times since the end of WWII and it should not come as a surprise to anyone that when rates drop to unprofitable levels they must eventually go up.

AADA has reached a situation with the growth in Chinese exports into Australia that the supply/demand situation has been reversed and Lines are now in a position where they can demand increases.

The problem that has been created is similar to that experienced in the South East trade some 3 years ago when exporters complained that Lines tried to demand three increases over a comparatively short period of time and exporters just could not handle the cost.

APSA believes the problem is created by the Lines which leads to these complaints.

Rather than Lines demanding incremental increases each year they allow rates to fall for 2 or 3 years then demand large increases over a short period of time which shippers cannot accommodate.

In relation to the above, APSA is interested to read that the TFG (South East Asia) has made a public statement that it plans to increase rates from South East Asia in 2004 and this will allow shippers to negotiate rates for 2004.

This should be an annual event and not once every three years!

2. Discussion Agreements

It is the strong view of shippers generally that Discussion Agreements are formed to limit or eliminate competition on price and capacity by combining conference members and independent operators in any particular trade.

Discussion Agreements are the chief target of Australian shippers who seek to end such agreements by taking away ocean carriers' long-standing right to operate with anti-trust immunity for these agreements.

APSA has no problem with cost-savings and efficiency enhancing agreements such as vessel sharing agreements or space chartering agreements all of which operate in Australia's trades.

Although issues discussed by members of Discussion Agreements are said to be voluntary or non-binding on the agreement members, there is a view that voluntary guidelines may not be truly voluntary and whether they actually interfere with individual carrier's behaviour, especially that of independent or non-conference carriers.

APSA in March 2000 lodged a formal complaint with the Australian Competition and Consumer Commission complaining that the Australia/South East Asia Trade Facilitation Agreement (TFA) - a discussion agreement - has virtually eliminated competition in the South East Asian trade by including 17 conference lines and independent lines in the one agreement.

This TFA controlled some 90% of the primary and secondary trade into South East Asia.

Through this agreement the TFA had announced three (3) rate increases over a six-month period which was quite unmanageable by exporters on term contracts.

On hearing that APSA had lodged the complaint, the TFA abandoned the third increase.

Apart from the agreement stating that issues were non-binding on agreement members - the fact that virtually all the lines operating in the South East Asia trade sitting down together to discuss freight rates reduces the competitive element in that trade.

It is the risk of abuse of competition by discussion agreements that has awakened shippers to the dangers of these recently formed discussion agreements in Australia's trades.

APSA is aware that the European Union is seeking to outlaw voluntary rate guidelines and discussion agreements and we understand also that Canada is heading in the same direction.

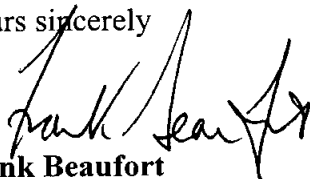
The elimination of the truly independent carriers in all trades except Europe since the introduction of Discussion Agreements has significantly contributed to the above problem.

Summary

Agreements such as Discussion Agreements and Capacity Stabilisation Agreements, which attempt to totally curtail all competitive elements, including from non-conference or independent operators, should not be subject to any kind of exemption from anti-trust or competition policy laws and PART X should be amended accordingly!

While traditional conference agreements provide benefits to shippers through better services, Discussion Agreements are only used to increase freight rates and limit capacity.

Yours sincerely



Frank Beaufort
Executive President