

11 May 2004

Mr. David Salisbury
Director, Rail and Waterfront
Transport and Prices Oversight Branch
Regulatory Affairs Division
Australian Competition and Consumer Commission
GPO Box 520J MELBOURNE
Victoria 3001

Position Paper on Part X Investigation into the Asia- Australia Discussion Agreement

Dear David

We refer to the Australian Competition & Consumer Commission Position Paper on the Part X investigation into the market conduct of the Asia-Australia Discussion Agreement (AADA).

The submission made by CCIWA in December 2003 remains our strong view on the matter but we do add the following comment: -

Western Australia does not enjoy the transit benefit of direct sailings from East Asia to Fremantle and our Services are based on feeder operations hubbing over Singapore. At the same time we have suffered the imposition of freight and surcharge increases without consideration or discussion.

The significant increases applied by AADA have by necessity been passed on to consumers however in many cases importers who have contractual commitments by competitive tendering have been forced to absorb the increases. In either circumstance the result is entirely unacceptable.

Rapid price increases frequently cannot be passed on as international trade arrangements commonly depend on fixed price supply contracts for extended periods. Additionally contracts often have long lead-in times that require certainty of final contract pricing. Rise & Fall clauses usually have trigger points and specific datelines before they can be exercised.

The exemptions provided by Part X offers little if any protection to Exporters and Importers in Western Australia by way of level of service and no comfort that the Lines are committed to meaningful negotiation on the level of freight and surcharges.

Views recently published in the Lloyds List suggesting that rates of freight for import cargo is not determined in Australia but are the result of offshore decision by overseas principals is a hollow

argument. In actual practice the Australian representatives play a major role in determining and introducing policies that establish the freight structure and the timing of increases.

There is concern for the argument that the TPA Part X has no legal application on the inbound trade and whilst this opinion persist importers and the consumers will continue to suffer.

The present protection offered by Part X does not in our opinion protect the National interest and the current arrangements with respect to the Discussion Groups acts against the interest of exporters and importers.

It was noted in the Position Paper that reference was made to the WA Shipper User Group (page 46 para 3). We presume this is in fact reference to the WA Shippers Council Inc (WASC), which is the designated secondary shipper body in Western Australia. The WASC works closely with CCIWA on all shipper issues and has collaborated with us in our submissions on this issue.

The CCIWA/WASC endorses the ACCC view that there are grounds for the Minister to de-register AADA.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Keith Seed', with a long horizontal flourish extending to the right.

Keith Seed

Director Trade Services

Executive Officer WASC