

# **NATIONAL BULK COMMODITIES GROUP**

## **SUPPLEMENTARY SUBMISSION TO THE PRODUCTIVITY COMMISSION'S INQUIRY INTO TOWAGE AND RELATED SERVICES IN AUSTRALIA**

**29 July, 2002**

## EXECUTIVE SUMMARY

In summary this submission:

- Supports the recommendation to provide for exclusive licenses as a mechanism to promote a more competitive environment.
- However, this is unlikely to have universal application in the short to medium term and therefore objective and transparent monitoring is necessary.
- Supports the extension of monitoring to all ports including those subject to declarations under the provisions of the *Prices Surveillance Act*.
- Supports the view that port authorities should undertake the tendering process and issue the exclusive contracts subject to certain procedures and length of duration of the exclusive contract.
- In the absence of a more competitive market for towage services in Australia there needs to be an effective price control mechanism to protect users and to ensure benefits flow through to the broader Australian economy.
- Supports the need for salvage capacity to assist in the protection of the marine environment and to reduce the risk to crews and vessels from the impact of marine incidents.
- Rejects the view that the perceived requirement to locate salvage response assets in some ports to mitigate the risks of a marine incident is incompatible with implementing a competitive market structure for harbour towage services in Australia.

The purpose of this supplementary submission is to provide the National Bulk Commodities Group (NBCG) views on some issues raised at public hearings convened by the Productivity Commission in the course of its inquiry into towage and related services in Australia.

## **Price Monitoring**

In the Productivity Commission Position Paper 'Economic Regulation of Harbour Towage and Related Services' one of the preliminary recommendations is:

'Harbour towage services provided at ports where declarations currently apply should, as a transitional measure, be subject to limited monitoring of prices by the ACCC for a three year period. Price data should be published annually.'

This recommendation is based on a preliminary finding that:

'Price monitoring, if undertaken through clearly specified and focussed indicators may have a role during a period of transition to a more competitive environment.'

The NBCG considers that transparent monitoring of prices, costs and profits by the ACCC is necessary as the towage and related services industry is encouraged to operate in a more competitive environment.

The recommendation to provide for exclusive licenses is supported by the NBCG as a mechanism to promote a more competitive environment compared with the existing market where there is a dominant supplier with the opportunity to exploit monopolistic rents. Many ports, particularly regional and remote ports, have a limited demand for harbour towage and exclusive licences may be the only alternative to encourage new operators to enter the market by way of an open and competitive tender for harbour towage in the current integrated market structure.

However, the transition from the existing market structure to a more competitive market environment using exclusive licenses as one mechanism is unlikely to have universal application in the short to medium term. While it is hoped that a number of ports will move quickly to implement competitive tendering and award exclusive licences, other ports may have a different timeframe for implementation. Hence the NBCG considers that objective and transparent monitoring is necessary. The monitoring process will provide the data for the industry and users to compare outcomes of policies and practices to introduce a more competitive environment. The data will provide indicators of best practice and provide guidance to port authorities, users and regulators as to the success or otherwise of arrangements to introduce a competitive environment and as a consequence a more efficient towage industry at competitive prices for the benefit of the Australian economy.

The NBCG agrees that ports that have been subject to declarations under the provisions of the *Prices Surveillance Act* should be monitored. However this is a minimal position and the NBCG would support the extension of monitoring to all ports. Clearly, the greater the number of ports being monitored the better the sample for data comparison and analysis of the benefits of change. The NBCG strongly recommends

that price monitoring be extended to provide a representative sample of all Australia ports. For example the inclusion of regional ports is necessary to understand the commercial dynamics of harbour towage in smaller ports and provide useful data for analysis. I note that the Port of Bunbury has already implemented an exclusive contract for towage and the outcomes of this arrangement may provide data for comparative purposes. The NBCG accepts that not all ports have the same economic parameters for towage services. However qualitative comparisons can be analysed with a broader coverage of capital and regional ports.

### **Who should control the Exclusive Contract process?**

The NBCG notes that the position paper indicates that port authorities should undertake the tendering process and issue the exclusive contracts subject to certain procedures. The NBCG concurs with this preliminary recommendation.

It is noted that recommendation has been subject to some discussion and whether other entities should undertake the process. The NBCG considers that generally the port authority should be in the best position to ascertain a port's requirement for towage services including any emergency response requirement. This would ensure that the needs of commercial shipping can be met together with the needs of other port users and the general community. Except for single user ports no other entity has the broader range of responsibilities to ensure that the appropriate balance is attained. Port authorities would, of course, need to consult the port community/users in developing the open and transparent tender process and conditions that attach to exclusive and non-exclusive towage contracts.

There has been a concern expressed that the port authority would incur additional costs in developing the tender process and in managing the contractual arrangements. This is accepted but, it is hoped, will be more than offset by price and efficiency gains in the provision of towage services. Port authorities has a direct role in port development and already provide and/or manage a range of port services with port users charged a fee to access port services.

### **Do exclusive contracts discourage the introduction of new technology?**

This issue has been raised and could be of concern should the conditions attaching to an exclusive contract permit long-term monopolistic rent seeking behaviour under the contract. It, of course, also applies where a dominant supplier also has the ability to exercise monopolistic behaviour.

An important factor to offset this concern is the time line for an exclusive contract. The shorter the term of an exclusive contract, the more likely the contractor will continue to seek higher levels of productivity through new equipment technology and operational systems. This behaviour should be encouraged by the contractual arrangements together with the requirement to amortize sunk costs in establishing a towage service under an exclusive contract.

### **Will exclusive contracts attract new competitors?**

This is another important issue as the objective of moving to a more competitive environment by exclusive or non-exclusive contracts is dependent on a range of tender responses from a number of towage service providers.

The recent limited market testing suggests that, at least, initially a range of towage service providers would respond to open tender arrangements. However subsequent interest in re-tendering after the expiration of the first round of exclusive contracts would be largely determined by the diversity of towage operators in the Australian market and the economies of scale and scope of these operators to compete with a provider with dominant market power.

The outcome of exclusive contracts as a mechanism to encourage a more competitive environment beyond the initial round of contracts is the reason that the NBCG has strongly recommended in its written submission that in the absence of a more competitive market for towage services in Australia there needs to be an effective price control mechanism to protect users and to ensure benefits flow through to the broader Australian economy.

## **Salvage**

Arguments have been made that effective competition in the towage service market in Australian ports will have adverse and serious consequences for salvage capacity and emergency response. The NBCG agrees with the AAPMA view that salvage and emergency response are different issues and should be separated. The NBCG considers that emergency response capacity (fire fighting and pollution response within the port area) can be provided under an exclusive contract without seriously impacting on the commerciality or competitiveness of a tender process and an exclusive harbour towage contract.

The salvage capacity and the salvage market structure is significantly different to that applying to harbour towage services in Australia. The risk/reward approach to salvage and the declining number of salvage operations are issues confronting other maritime nations and Australia should consider the issue separately to the provision of harbour towage services.

The NBCG acknowledges and supports the need to protect the marine environment and to reduce the risk to crews and vessels from the impact of marine incidents. However, the NBCG rejects the view that the perceived requirement to locate salvage response assets in some ports to mitigate the risks of a marine incident is incompatible with implementing a competitive market structure for harbour towage services in Australia. This view implies that salvage assets need to be cross subsidised by harbour towage assets. Arrangements to fund and deploy strategically located salvage capacity assets can be implemented separately to the transition to a more competitive market structure for harbour towage.

