

12/10/2022

Dear Commissioners and Staff,

My name is Dr. Greig Taylor and I am an academic at UNSW Business School. As you may recall, my colleague, Dr Matthew McDonald, and I made a submission to the Commission's inquiry back in February this year based on our research project, which examined container port reform in Australia. We have now had the opportunity to carefully read and digest the draft report released last month and welcome the opportunity to provide a response to some of the recommendations made. Please find these listed below:

- The title of the report itself reflects the disappointingly narrow scope of its findings. The terms of reference for the inquiry state that the Commission is directed to “examine the long term trends, structural changes, and impediments that impact the efficiency and dependability of the maritime logistics system...” yet there is very limited criticism of the poor policy choices surrounding the introduction of the third stevedore and privatisation of port authorities at some ports. Instead, the overwhelming emphasis seems myopically placed on lifting productivity. Privatisation and failed competition measures have added significant cost inefficiencies to the landside supply chain and, ultimately, increased costs for consumers. Above market price lease fees, pursued by state governments (particularly NSW and Victoria) with incentivisation from the Federal government, at the expense of all other considerations and stakeholders, have resulted in private monopoly ownership with significant outlays to recoup. This is a primary driver of rent rises for stevedoring companies, which in turn are a driver of Terminal Access Charges (TACs). More weight should be placed on policy failures in the Commission's overview of the industry. Fremantle is the only major container port that remains in public hands and policy makers in the state government would be misled into thinking that privatisation carries few or no downsides if the Commission's report is read at face value.
- The lack of emphasis on policy failures is compounded by the overt (and arguably ideological) antipathy of the Commission towards workers and the dominant union in the industry, the MUA. The Commission has over relied on the testimony of stevedoring companies in their attribution of inefficiency in the industry. Of course

all stevedoring companies (and the consultants/think tanks they employ) are hostile to the workplace conditions bargained for by workers and their unions – labour costs form a significant portion of overheads for stevedores and it is unsurprising that they would seek to minimise these wherever possible. The Commission should be more cynical when assessing submissions from those with obvious bias – these criticisms from stevedores are more about increasing profit than improving productivity. In fact, the labour productivity measure has improved consistently over the last 20 years, illustrating workers’ contribution to improving efficiency in the industry.

- Directly related to the last point, until the Commission has the data from each step of the container handling process inside the dock estate, it should temper its willingness to lay the majority of the blame for inefficiency on workers/the union. There are many other factors, often outside of the purview or control of workers and their representatives, or the conditions of an EBA, which contribute to container loading time/ship turnaround time/truck turnaround time, such as yard space, assets used to handle containers, level/utilization of automation etc. The Commission has the authority to compel stevedoring companies to provide this type of data (which said companies surely compile) and should do so to make a detailed and objective evidence-based analysis of the causes of inefficiency at each step of the process within the dock estate. The fact this data is difficult to access and/or compile should not be an impediment. We call on the Commission not to squander the chance to provide a meaningful report that leaves no stone unturned and contributes to the long-term sustainability of the industry.
- We express surprise that the Commission recommends against rent rise regulation. This is the section of the supply chain where most monopoly market power is concentrated. The Commission emphasises the importance of ports to Australia’s economic health but is willing to trust in these market players (usually at least partially foreign owned) to act in the interest of Australian businesses and consumers. Yes, the Essential Services Commission’s actions in Melbourne seem to have cowed other privatised port authorities against overt rent rises for the moment, but to propose this will be the case for the life of a lease is naive. The Commission should be more forward looking in this respect. As previously noted, this is a rare opportunity to set the industry on a sustainable long-term footing, it should not be squandered.

- We welcome the suggestion to cap/regulate TACs. However, the Commission's proposed solution to shift these onto shipping lines is unrealistic and significantly underplays the leverage these have over stevedoring companies. It is difficult to believe that shipping companies would countenance increased charges of this sort unless this is supported by a formal or statutory mechanism.
- The Commission emphasises restrictive practices within the industry's EBAs as a central cause of inefficiency in the industry, without explicitly detailing how rostering flexibility (for example) would lead to a significant increase in productivity measures. Other criticisms include the prevalence of tenure, rather than merit based, promotion. However, this overlooks the importance of experience, familiarity with operations, and workplace health and safety in the industry. Cargo handling is by its very nature hazardous and therefore health and safety concerns should be paramount. Performance based promotion is difficult to implement without compromising a core commitment to WHS – for example, operating a piece of equipment more quickly (which might be regarded in other industries as a quantitative measure of an employee's performance) is neither practical, desirable, nor safe. If standard measures of individual employee productivity cannot be used drive promotion decisions, then the recommendations made in the report are tantamount to proposing a shift from experience-based competencies to subjective managerial whim. It is difficult to understand how this would improve productivity or efficiency in the industry. If the Commission finds experience-based promotion objectionable, it should propose a realistic alternative.
- Australia has some of the most restrictive industrial relations laws in the western world, further legal regulation should therefore be avoided and is surely not within the remit of this inquiry. In fact, restrictive legal regulation of industrial relations is the cause of the bottle necks that increase intensity of industrial action during EBA negotiations. Advocating more restrictive industrial laws is not the answer to the supply chain issues Australia's economy faces.
- One note from a technical perspective – please amend reference to our submission on p.351 to indicate that our related study acknowledged the limitations of Waterline

data as aggregated at the port, rather than terminal, level. As it stands this is made to sound like an oversight on our behalf, subsequently uncovered by the Commission – clearly, this is not the case. The calculations that the Commission have made in this regard are helpful but broadly, and unsurprisingly, support the assertion that automation has a negligible impact on port efficiency and therefore correspond with the generalised findings gleaned from the Waterline statistics. Despite the claims of stevedoring companies over the last decade, automation has surely been discredited as a lever to increase productivity in Australia’s container ports and the Commission should be more emphatic when articulating this in its report.