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Dear Dr King and Ms Abramson

Lifting productivity at Australia's container ports draft report – CCIWA submission

Thank you for the opportunity to provide comment on the inquiry into Australia's maritime logistics system including the constraints affecting the system and the recommendations put forward to address some of these challenges.

In our initial submission, prior to the release of the draft report, we identified the immense challenge that supply chain pressures have posed to WA businesses in the past 18 months. In December 2021, around three in five WA businesses reported that supply chain disruptions were a barrier to growth, with higher material costs and delayed delivery of input materials some of the significant consequences.

Global supply chain pressures have started to ease with the slowdown of consumer demand due to high inflation and interest rate rises, as well as businesses having since identified solutions and workarounds to navigate the supply chain bottlenecks. However, there is still concern that there are features in WA's maritime logistics system that will continue to hinder productivity.

Notwithstanding the importance of all aspects of Australia's maritime logistics system that are explored in the report, the rest of this submission focuses on two specific areas of concern.

Industrial relations

The most pressing area of concern is the disproportionate impact of industrial action within the maritime industry on the broader economy.

We are therefore glad to see the draft report recognise the damage that industrial disputes can cause to the wider economy and are supportive of the recommendations proposed that seek to address this issue, particularly the following suggested amendments to the Fair Work Act:

- Introducing a short list of unlawful terms in enterprise agreements that aim to prohibit content that imposes excessive constraints on productivity in the ports and costs on the supply chain.
- Introducing further options that allow employers to engage in more graduated forms of protected industrial action in response to employee industrial action.

- Clarifying that when determining whether to suspend or terminate industrial action, the Fair Work Commission should interpret the word ‘significant’ as ‘important or of consequence’.
- Enabling protected industrial action to be suspended or terminated when it is causing harm to either party, rather than both.

Adopting these recommendations will reduce the capacity for a relatively small number of employees to hold the WA and national economy to ransom by giving employers and other affected third parties more leverage in the bargaining process. Doing so will help manage and minimise the damage that future industrial disputes can inflict on the broader economy and limit the disruptions to port operations.

We note the Commission has requested further information about whether other port sectors — for example, bulk ports — experience workplace relations issues that affect the efficiency or productivity of operations. We can confirm that this is the case, with one example being the industrial disputes at Kwinana Bulk Terminal last year, where escalations in the dispute closed the terminal for several hours a day causing a backlog of vessels waiting to access the terminal and a build-up of fees and charges levied on bulk carriers.

Therefore, the above changes should apply more broadly than just to container port operations.

Rising fees and charges

Escalating fees and charges are another area of concern. One example pointed out in the draft report is the marked increase in terminal access charges, which appears to be a product of terminal operators exercising their market power over landside transport operators.

We support the Commission’s recommendation that regulations should be established that prevent container terminal operators from charging landside transport operators fixed fees. Instead, and in line with the Commission’s suggestion, terminal operators should only be able to levy incentive-based fees on landside transport operators. State-based regulators should monitor these fees to ensure they are used to encourage landside transport operators to maximise efficiency, rather than as a tool to offset any lost revenue from fixed fees.

Once again, thank you for the opportunity to comment on this inquiry.

Yours faithfully

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