



## PORTS CORPORATION QUEENSLAND

12 February 2001

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The National Access Regime Inquiry  
Productivity Commission  
PO Box 80  
BELCONNEN ACT 2616

Dear Sir/Madam

### **National Access Regime**

The Ports Corporation of Queensland is a Queensland government owned corporation which, amongst other functions, provides port facilities as a component of the transport chain for the export of bulk commodities. The Corporation is the port authority for some of the nation's largest and most successful bulk commodity export facilities.

Whilst, at this time, none of the Corporation's facilities have been overtly brought within the National Access Regime (NAR), the Corporation has been exposed to the NAR and followed closely developments in the area as they affect our business, particularly the 'permitted profit percentage'. The Corporation requires the National Access Regime Inquiry address the following issues.

### **The NAR Process**

The NAR as it currently stands is process driven and not focussed on the outcomes it was conceived to deliver. It is the Corporation's view that the NAR processes are too lengthy and the outcomes too indeterminate.

This view is supported by:

- The small number of final outcomes (in terms of certified access regimes) under the NAR to date.
- The inordinate lengths of time taken to produce outcomes that are indeterminate.

### **State/Federal Duplication**

The process for decisions (and non-decisions) is complicated by the number of State and Federal bodies with responsibilities in the area, and the ability to choose between these bodies under the NAR.

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It is the Corporations view that the current arrangements create a structure where access seekers and/or facility owners may be able to improve their position by manipulating the NAR processes and by "forum shopping".

Set (rigorous) timelines could be established for all parts of the NAR processes, the rationale for the division of responsibilities between State and Federal regulators could be more clearly defined, and duplication discouraged. Greater adherence to timelines and transparency should be required at all points of the NAR processes where decisionmakers have the discretion to determine NAR process outcomes.

### **Costs of Regulation**

Duplication of regulatory bodies at State and Federal levels also leads to greater costs, both directly in establishment of the bodies and in compliance costs. This should be minimised wherever possible.

### **Concepts Underlying the NAR**

Whilst the structure of the NAR is important, the concepts underlying the process are equally determinative of outcomes. At its most basic level, the NAR seeks to emulate the behaviours of a marketplace. It is vital to always keep in mind that measures designed to introduce theoretical efficiency may in effect introduce real world inefficiency.

Some examples of theoretical approaches that can lead to real world inefficiencies are:

- Where regulatory regimes do not focus on the benefits of the facility owner providing competitive prices, there is no better return for the facility owner for excellent performance. Rather, there is a focus on mediocrity, both in terms of performance and returns. Excellence in outcomes should always be the focus in application of the NAR.
- Utilising predetermined returns provides no incentive to reduce the capital base (and hence the cost per capacity).
- Requiring delivery of the whole of any taxation benefits to access seekers.
- Asset valuations which are based on "ideal world" assumptions that do not account for the "lumpiness" of some capital investments, undervaluing assets and therefore reducing returns unacceptably for facility owners.
- Marginal pricing, in some circumstances.
- The application of the concept of the "market". Appropriate decisions in this area are especially crucial to successful outcomes. Where an Australian enterprise takes action that may reduce competition in an Australian market, any consideration of the action should take into account increases in global competitiveness of the enterprise and the overall benefits flowing to the Australian economy.

- Provision of access in a manner that "fractures" the infrastructure such that synergies in operation of the infrastructure as a whole are lost.

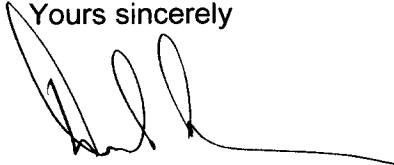
The Corporation recognises that the issues raised above are not necessarily currently addressed directly within the NAR. However, it is the Corporation's view that they should be addressed, irrespective of whether that be in Federal or State legislation, regulations or guidelines.

### **Effectiveness of Competition Policy**

The Corporation supports study of international approaches to access issues. However, the investigation should be focussed on examining the real outcomes of different approaches, rather than the underlying economic and philosophical theories. For example the cost, quality of service, safety and reliability of the service delivery system could be considered.

Please contact Paul Blewonski, Manager Corporate Strategy, on 07 3224 8736 if you require any further clarification. The Corporation wishes to be kept informed of the Inquiry's progress, and expects to make further submissions to the Inquiry at the appropriate time.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Derek G. Andrews', with a long horizontal line extending to the right.

**Derek G. Andrews**  
**Chief Executive Officer**