

INTERNATIONAL LINER CARGO SHIPPING:
A Review of Part X of the Trade Practices Act 1974

<i>SUBMISSION BY ANL CONTAINER LINE PTY. LTD.</i>
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Part X of the TPA was introduced in its current form in 1989. The changes to this Act were designed to encourage a more competitive environment in International Liner cargo shipping. Australian importers and exporters have benefited from this by receiving access to liner conference shipping services that provided frequent and reliable sailings at competitive rates. In recent years the availability of this service has surpassed the demands of Australian exporters and importers. As a consequence, competition is fierce and individual players are struggling to maintain profitability.

Section 10.01c states one of the principal objectives of Part X is to “...ensure that efficient Australian flag shipping is not unreasonably hindered from normal commercial participation in any outwards liner cargo shipping trade.”

Despite the recent change of major shareholder from a government entity to an off shore ownership – ANLCL is still regarded as an “Australian flag” carrier and is protected by section 10.01c. Part X section 10.02 discusses the interpretation of the objectives and outlines the definition of “Australian flag shipping operator” in detail. ANLCL meets all the criteria of this definition:

- (a) is an Australian Citizen or a body corporate incorporated by or under the law of the Commonwealth or of a State or Territory;
- (b) provides, or proposes to provide, shipping services; and
- (c) normally uses, or proposes normally to use, in providing the services only:
 - (iii) a ship that is registered in Australia; or
 - (iv) 2 or more ships, all or most of which are registered in Australia.

ANLCL has certainly been hindered by the actions of several competitors. Freight rates have plummeted dramatically in the last 2-3 years. The free fall of rates is unreasonable and has hampered ANLCL from effectively operating in the market place. The saturation of the market with revised and upgraded services has contributed to ANLCL's unprofitability in recent years.

A difficult trading environment has emerged and over supply of tonnage on the berth has resulted in aggressive pricing. New players continue to flood the market and attempts to stabilise freight rates are unsuccessful as shipping lines are pressured to decrease freight rates in order to retain core business and maintain vessel utilisation.

In ANL's view, it is vital that an Australian Flag operator is protected by legislation from over-zealous competitors that only serve to enter the market and destroy the competition through hostile pricing strategies. The market must consist of a number of parties that continue to provide an efficient service to Australian exporters and promote a healthy level of competition. Without this protection we risk encouraging the promotion of one or two aggressive Lines that may eventuate in a monopolised industry.

In conclusion, ANL supports the retention of Section 10.53 in its current form, which recognises the potential adverse effect of excessive competition. Furthermore ANL acknowledges the importance of enforcing this legislation by empowering the Minister to intervene (in accordance with Section 10.54) and serve and order on a non - conference operator with substantial market power to comply with Section 10.53.