



SUBMISSION TO THE PRODUCTIVITY COMMISSION

INTERNATIONAL LINER CARGO SHIPPING:

A REVIEW OF PART X OF THE TRADE PRACTICES ACT 1974

JUNE 1999

As an island State, Tasmania is acutely aware of the important role shipping plays in moving goods efficiently and effectively in and out of Australia, and is concerned that any changes to the regulatory framework in which shipping occurs is to the benefit of Australia.

The submission was prepared in the awareness that Australia's peak shipper bodies have provided extensive argument in support of the continuation of Part X of the *Trade Practices Act 1974*.

This submission does not seek to restate these arguments but seeks to draw the Productivity Commission's attention to three salient points.

These points are that:

1. The major beneficiaries of Part X are Australian exporters and not the shipping companies that comprise conferences;
2. Removal of Part X will not result in shipping companies transferring to other methods of authorisation provided for under the *Trade Practices Act*; and
3. There is no evidence to suggest that there is an abuse of market power that would warrant the removal of Part X.

BENEFICIARIES

In reviewing Part X of the *Trade Practices Act 1974* it is crucial that the impact of the legislation be examined from the perspective of all beneficiaries. The perspective the Issues Paper appeared to take was that the main beneficiary of Part X is the liner shipping industry with the costs potentially being borne by shippers and the broader trading community.

The protection Part X offers Australian exporters manifests itself not only in the service levels (frequency) provided and minimum standards but also by enabling the inclusion of broader issues in establishing exemption under the Act.

Part X is the mechanism through which the potential power differential between shippers and shipping companies is equalised. It is imperative that the debate on the merits of Part X be prevented from being derailed on the basis of potential freight rate differences.

The statistics presented in the Issues Paper clearly show that the subscribers of shipping services that operate under Part X are generally seeking to move goods with a higher value/weight ratio. Such goods are more reliant on timeliness and reliability with regard to maintaining access and a presence in international markets. Within the scale of Australia's current transport task it is **unlikely** that such "system critical" services would be maintained in an environment without a Part X provision.

It is submitted that Part X provides invaluable protection and support for Australia's exporters.

ALTERNATIVE AUTHORISATION PROCEDURES

Suggestions that alternate provisions of the *Trade Practices Act 1974* provide scope for similar agreements to be instituted fail to recognise there are considerable costs associated with these provisions in terms of application costs, time delays and a lack of responsiveness. Significantly the way in which the authorisations operate in terms of duration and time to implement are inconsistent with the planning cycles and permanency required by the shipping industry.

It is submitted that removal of Part X will not result in increased use of other authorisation mechanisms and consequently there would be:

- **a demise in the type of shipping services provided by conference lines with a major adverse impact on shippers; and/or**
- **a flagrant disregard for the relevant legislation that would be almost impossible to enforce.**

MARKET SHARE OF CONFERENCE LINES

It is widely acknowledged that the market share of conference lines, both in terms of tonnage and value, has declined in the period since the last review of Part X. The scale of decline is substantial and is estimated to have shifted from about 55% to 50%. Both the scale of the decline and the market share in absolute terms provide a significant insight into the power and influence that conference shipping lines are able to exert.

A **combined** market share of 50% for all conferences highlights that there is considerable scope for exporters to choose non-conference services. It is submitted that as a consequence there is also considerable scope for both price and service competition and importantly that there is a sector of the market that desires the provision of the shipping options provided under conference arrangements.

It is submitted that the market share enjoyed by conference shipping lines suggests an absence of monopoly power and that to the contrary it provides exporters with an alternative shipping service to satisfy a specific market sector.

It is the Tasmanian Government's contention that, in the absence of conclusive and irrefutable evidence that costs outweigh the considerable benefits provided by Part X of the *Trade Practices Act 1974*, Part X should be retained in its current form.