

6 September 1999

Mr Gary Banks  
Chairman  
Productivity Commission  
Level 3, nature Conservation House  
Cr Emu Bank and Benjamin Way  
BELCONNEN ACT 2617

Dear Mr Banks

My attention has been drawn to the current review of Part X of the *Trade Practices Act 1974* (TPA) being undertaken by the Productivity Commission as part of Australia's agenda under National Competition Policy (NCP).

In the Business Council of Australia's view, Part X is an anomaly in the competition policy framework. Part X allows specific forms of anti-competitive behaviour involving liner shipping conferences which could otherwise contravene competitive conduct rules in Part IV of the TPA. While there have been historical reasons for granting these types of special exemptions, currently Part X is the only part of the TPA that provides industry specific exemptions for anti-competitive behaviour.

Available evidence would suggest that Australia has benefited from conditions on the global liner shipping market which have driven global freight rates down over the last decade. The evidence seems to suggest that there has been a strong correlation between global freight rates and Australian freight rates.

Independents have been playing an increasingly important role in almost all commodity segments, trade routes and significantly in services to regional ports.

In short, there would appear to be robust competition in the shipping market which serves Australia. Given the current trends in shipping – the emergence of large global shipping operators, the increasing market penetration of independents, the role of hub and spoke networking and the increased merger activity – there is no reason to believe that the level of competitive activity will be diminished.

In these circumstances, one must question the need for the liner shipping industry to be provided with special exemption from competition law. At the very least, if Part X is to be retained, then it needs to be demonstrated that there is a clear net public benefit flowing from these special exemptions for anti-competitive behaviour.

Yours sincerely

David Buckingham  
Executive Director