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Review of Part X of TPA
Productivity Commission
PO Box 80
Belconnen ACT 2616

Dear Sir/Madam,

**2004 Review of Part X of the Trade Practices Act 1974:
International Liner Cargo Shipping**

In commenting on the 2004 Review of Part X of the *Trade Practices Act 1974*: we suggest that Part X of the Trade Practices Act be retained. In reaching this conclusion we have taken into consideration the following.

The Scope of Enquiry takes into account, amongst others, the following objective:

“legislation/regulation should be retained only if the benefits to the community as a whole outweigh the costs.”

It is our view that under Part X community interests have been served by providing Australian exporters and importers with liner shipping services that have met the diverse needs of the industry. These needs include but are not limited to:

- Frequency of services
- Frequency of port calls
- Access to markets
- Availability of space
- Availability of equipment.

In addition Flinders Ports believes that price fixing arrangement under Part X need to be retained to enable shipping lines to maintain current levels of service. The level and timing of freight rate increases needs to be understood by the shipping lines to meet the demands of the market. The North Asian/Australian trade is a recent case in point where freight rate increases were required to enable the lines to provide increased capacity to meet importers and exporters requirements.

It is our view that there is unlikely to be abuse of market power in regards price fixing as shippers or shipper groups have the ability to confidentially negotiate pricing arrangements one-on-one with individual conference and non-conference carriers. It should be noted that the ability to negotiate individual, confidential contracts was the cornerstone of the 1998 United States *Ocean Shipping Reform Act (OSRA)* designed to create 'a more market driven and efficient liner shipping industry'. The Federal Maritime Commission (FMC) has concluded that the OSRA is achieving this objective.

To determine whether the '*benefits to the community as a whole outweigh the costs*' an examination of the possible consequences of repealing Part X needs to be made. It is Flinders Ports belief that some of these consequences of this outcome may include the following:

Reduction in service levels incorporating:

- A reduction in the number of shipping lines calling Australia and subsequent decrease in the level of competition.
- Less frequency of vessel calls.
- A reduction in shipping space available to importers and exporters.
- Rationalisation of port calls to the detriment of smaller and regional ports.
- A reduction in the availability of container equipment.
- Loss of import & export markets.

Under the above scenarios importers and exporters may be faced with the following:

- Increased freight costs due to loss of competition.
- Increased freight costs due to lines inability to rationalise services and the subsequent loss of efficiencies.
- An inability to compete in global markets as a consequence of sub standard and inefficient liner services.

As a port operator Flinders Ports is also concerned about the potential impact that repealing Part X may have on our business. A breakdown of conferences or consortiums would place additional stress on the services provided by both port operators and service providers of the port.

Instead of conference lines or vessel sharing operators arriving and sailing at ports in a coordinated and efficient manner the situation may arise that multiple carriers would be competing for limited supply of tugs, pilots, mooring gangs or berthing windows at shipping terminals. The consequences of this would either:

- Delays for arriving and departing vessels and subsequent cargo delays causing failure in the supply chain or
- Additional capital expenditure by service providers to meet peak demand and subsequently adding further costs to the importers or exporters transport costs.

In summation, in light of the above it is our belief that the benefits of retaining Part X outweigh the costs of repealing it.

Yours sincerely

Chief Executive Officer