



Importers Association of Australia

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Productivity Commission

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

Submission in response to Issues Paper

1. The Importers Association of Australia (IAA) is a designated inwards peak shipper body for the purposes of Part X of the Trade Practices Act 1974.
2. The Part X regulatory scheme has four principal objectives:
 - “(a) to ensure that Australian exporters have continued access to outwards liner cargo shipping services of adequate frequency and reliability at freight rates that are internationally competitive
 - (b) to promote conditions in the international liner cargo shipping industry that encourage stable access to export markets for exporters in all States and Territories
 - (c) to ensure that efficient Australian flag shipping is not unreasonably hindered from normal commercial participation in any outwards liner cargo shipping trade
 - (d) as far as practicable, to extend to Australian importers in each State and Territory the protection given by this Part to Australian exporters.”

(see Section 10.01 (1) Trade Practices Act 1974)
3. For those objectives to be achieved, liner shipping companies are given limited exemptions from trade practices law and permitted to enter into co-operative arrangements in providing shipping services to Australian shippers. These arrangements include joint provision of services and agreements on capacity, service levels and prices charged.
4. In return for these exemptions, Part X imposes certain obligations and requirements on parties to conference agreements, including an obligation to negotiate with designated shipper bodies and to provide certain information to facilitate those negotiations. In an attempt to balance the

power of the conference parties and to retain some elements of a competitive environment, designated shipper bodies are provided with limited rights in their dealings with shipping lines.

5. The scope of negotiations for a designated inwards peak shipper body is basically limited to issues of “minimum service levels”, such as frequency of sailings, cargo carrying capacity, and ports of call. Thus, excluded from the negotiations are ocean freight rates. Moreover, conferences are not required to discuss operational matters dealing with their services, such as container detention charges, invoicing practices.
6. Freight rates are obviously of the utmost importance to importers. Whilst importers recognise that increased demand for shipping services might lead to an increase in shipping rates, particularly concerning is when increases are frequent and sharp, as has happened with the southbound liner trade from North–East Asia. One of the expected benefits from the Part X regulatory regime was that it would provide stability and predictability in freight rates. But when demand for shipping increases, Part X seems to be of little assistance to importers. Apart from increases in the basic rate, there are peak season surcharges announced and implemented with little notice.
7. Another benefit that was to flow from Part X was high–quality shipping services. Again, there is little evidence to show that Part X has delivered this outcome. Problems that importers frequently encounter with shipping services are:
 - Late arrival of containers
 - Containers miss connecting vessel
 - Difficulty in securing space on a vessel
 - Lack of container tracing at transshipment ports
 - Late invoicing for container detention
 - Poor customer service
8. In summary, the Association struggles to see how Part X currently delivers benefits for importers.
9. Should Part X be retained, the IAA believes that there should be three changes:
 - (i) the exemption should not be extended to pricing discussions and agreements but confined to allowing shipping conferences to discuss other areas of mutual benefit such as capacity sharing and expected future demand for services
 - (ii) member lines should be required to earlier notice of increases in freight rates
 - (iii) service standards should be included in Part X negotiations.