



**Productivity Commission 2004 Review of Part X of the
Trade Practices Act 1974**

International Liner Cargo Shipping

Public Inquiry

**Submission in response prepared by
Gift and Homewares Australia**

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DECEMBER 2004

Summary

Gift & Homewares Australia (GHA) believes that Part X of the Trade Practices Act 1974 (the Act) should be retained and reformed but not abolished. GHA's main concerns lie with the significant price increases which have been imposed upon our Members, the lack of price competition which currently exists within the market place, a failure of service suppliers to provide any satisfactory level of advance warning of pending price increases and an inability for importers to be able to access sufficient and timely sea freight and container services. Perhaps though the major concern of GHA and its Members is the impact on Member businesses of continual increases in freight charges.

Introduction

Gift and Homewares Australia (GHA) is the leading industry body representing the gift and homewares industry. GHA (the Association) has over 1,600 Full Members nationally who comprise importers, wholesalers, manufacturers and agents within the Australian gift and homewares industry. GHA also has over 1,800 Associate Members nationally who own and run retail businesses.

GHA's membership is dominated by small business operators with around 94% of our Members having less than 20 employees. Members of the Association are a key part of the supply chain and conservatively it is estimated that our Members supply in excess of 40,000 retail outlets across Australia - this includes all of the major retail department stores and chains. It is a fact of life that increased costs imposed upon our Members will have significant flow on effects firstly to retailers and then onto Australian consumers.

The Association's membership is heavily reliant on sea freight and in particular inward bound container services. It is estimated that approximately 80% of GHA Members import product from overseas with the vast bulk of this being carried via sea. Our Members import an enormous variety of products, some of which includes:

- general gift items
- glassware
- jewellery
- artificial Flowers
- tableware
- craft/handmade items
- toys
- ceramics/pottery
- leather goods
- kitchenware
- manchester
- caneware
- lighting
- children products
- body products
- furnishings.

The main regions where product is imported from includes:

Table 1: Main regions from where product is imported

Region	Response
Japan, Korea and the Far East	48%
South East Asia	28%
Europe, the Mediterranean and the Red Sea	26%
Middle East Gulf, West India, Pakistan, Sri Lanka	9%
US/Canada West Coast	6%
US/Canada East Coast and Central America	6%
New Zealand	3%
Africa and Mauritius	1%

The Association supports the broad principles which underpin the exemptions granted to Shipping Conferences under the Trade Practices Act 1974 (TPA). However, the privileges afforded to Shipping Conferences have the potential for abuse if not properly monitored and regulated. The significant price increases experienced in recent times, combined with the fact that our Members have not been able to negotiate or secure more competitive rates within the transport market place, leads us to suspect that such abuses may be occurring. Exemptions such as this allow significant potential for reduced competition, especially where a Shipping Conference carries a large proportion of cargo from a particular region.

GHA Comments on Part X of the TPA

The principle aims of Part X of the Act are to:

- a) *“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; and*
- b) *to promote conditions in the international cargo shipping industry that encourage stable access to export markets for exporters in all States and Territories; and*
- c) *to ensure that efficient Australian flag shipping is not unreasonably hindered from normal commercial participation in any outwards liner cargo shipping trade; and*
- d) *as far as practicable, to extend to Australian importers in each State and Territory the protection given by this Part to Australian exporters.”¹*

With reference to point d) above, for all extensive purposes, Australian importers in each State and Territory are extended the same protections afforded by Part X of the Act as extended to Australian exporters. It is interesting to note that point d) contradicts information upon the Department of Transport and Regional Services website which states that importers are not covered by Part X. Clearly, this misconception needs addressing.

¹ Miller, R.V (2004), *Miller’s Annotated Trade Practices Act*, Thomson Lawbook, Pymont, p.1928.

GHA seeks to reinforce that importers, like exporters, depend on the services of both conference and non-conference liner shipping and should be afforded the same privileges and protections as exporters.

GHA's position is that our Members are currently facing excessive and ever increasing sea freight charges with significant service deficiencies existing within shipping services in the areas of:

- frequency;
- space; and both
- capacity and reliability.

GHA Shipping Survey

Following a number of complaints from our Members about increases in freight charges, GHA conducted a survey in August 2004 to ascertain the level of satisfaction of our Members in relation to:

- freight cost increases over the last 18 months for both 20 and 40 foot containers;
- the ability able to obtain cheaper freight rates from other shipping lines;
- the ability to negotiate smaller price increases than originally declared by their current shipping lines and freight providers;
- being forced or being unable to increase their prices, either 'passing on' or absorbing these increased costs;
- problems and service deficiencies encountered with inward bound sea freight;
- satisfaction with the overall levels of service provided by shipping lines commensurate with rates charged.

GHA Shipping Survey Results

In relation to point a) of the principles of Part X of the Act, GHA Members have voiced significant concerns that they do not have continued access to inwards liner cargo shipping services of adequate frequency and reliability. Moreover, Members are being charged exorbitant prices that are clearly not internationally competitive. In addition our Members are also faced with regular price increases with minimal or no notice being communicated.

Approximately 80% of our Members import into Australia and of these nearly 95% of Members have faced increases. In some instances, increases have been up to 300% in the cost of shipping a container from north east Asia since June 2003².

Below is a table which identifies sea freight container rates for 20 and 40 foot containers ascertained from our August 2004 survey.

² Gift & Homewares Australia, *Part X Investigation Asia – Australia Discussion Agreement, Australian Southbound Liner Trades from North East Asia Issues Paper*, December 2003, p.3.

Table 2: Container costs

	20 Foot Container	40 foot container
June 2003	\$US 1050	\$US 1300
August 2004	\$US 1250	\$US 2300

Key issues include:

- Almost 95% of our Members have not been able to negotiate cheaper rates from other shipping lines;
- 82% have not been able to negotiate a lesser price increase than was originally notified by their shipping line(s); and
- 85% of Members have not been able to increase their selling prices to pass on these increased costs.

Table 3: Problems with inward bound containers

Problem	Response
Late arrival	41%
Missed connecting vessel	28%
Difficulty in securing space on ships	36%
Lack of commitment from shipping lines	26%

In relation to part b) of the principles of Part X of the Act, our Members have stated that they do not have stable access to export markets. A significant number of Members are experiencing difficulties with all of the identified problems, especially the late arrival of vessels (40.6%) and a significant difficulty is securing space upon ships (36.2%).

Table 4: Satisfaction of Members with the standard of service from shipping line(s)

Satisfaction with the standard of service	Response
Excellent	2%
Very good	7%
Good	27%
Fair	56%
Poor	8%

Our Member responses indicate that despite the increases in freight prices the levels of service provided by the shipping lines have not improved and remain only 'fair' (56%).

Table 5: Has the service of shipping lines improved with price increases?

Service of shipping lines has increased	Response
Strongly agree	ZERO
Agree	2%
Neutral	33%
Disagree	48%
Strongly disagree	17%

From the above results it is evident that the principal objectives of Part X of the Act – are not being achieved. Australian exporters and importers do not have continued or sufficient access to inwards liner cargo shipping services of adequate frequency and reliability at freight rates which are internationally competitive.

Recommendations

From GHA's perspective, a Shipping Conference should aim to deliver benefits to both the shipping lines as well as shippers. Unfortunately, the available evidence gathered from our Members over the past 18 months suggests that shipping lines are exercising their market power at the expense of importers.

If Part X were to be retained, we submit that the following changes should be made to improve its effectiveness:

- Consultation in a more open and transparent fashion with designated shipper bodies such as the Importers Association of Australia and GHA.
- Greater transparency as to who are the specific members of exempted shipping conferences. The GHA was unable to obtain information from the Department of Transport and Regional Services as to which companies and/or shipping agents are registered with the Department (unless we agreed to pay \$30 per agent).
- Shipping lines should be required to provide greater notice of price increases including a declared public justification for such increases in order to allow importers to understand and accept price increases and allow importers adequate time to adjust their pricing.
- Shipping lines should address service standards in order to ensure that price increases adequately reflect and ensure there is sufficient capacity and frequency to meet the needs of both importers and exporters.
- A review should be conducted by the Productivity Commission to determine whether or not undertakings made by shipping lines have been met, and whether or not there is any evidence of price collusion.