

23 December 2004

Part X of the Trade Practices Act

Subject: Further to my previous submissions

To Professor Judith Sloan

From Dr Tony Fletcher

I have studied the Sydney & Melbourne Hearings transcripts concentrating this time on the Transport Industry representatives. The following are matters which cause me concern because they demonstrate a deep misunderstanding by outsiders of the relationship between stevedores and shipowners.

Page 3 Sydney Hearings MR McMASTER:

We believe that the nature of the relationship between shipping lines and stevedores is more in favour of the shipping lines than the nature of the relationship between the stevedores and the road transport industry. The contract to stevedore a ship is between the shipowner and the stevedore. In a large proportion of wharveside container terminals in Australia the terminal is owned by a shipowner or consortium of shipowners. It is axiomatic that the shipowner demands absolute priority for having no delays to his ship, which costs about A\$100,000 per day.

COMMENT. IF THE CONTAINER TERMINALS WERE CO-OWNED BY THE SHIPOWNER AND THE ROAD TRANSPORT OPERATORS THEN ROAD TRANSPORT OWNED EQUIPMENT-FORK LIFTS OR STRADDLE LIFTERS WOULD BE AVAILABLE FOR PURELY LOADING TRUCKS. AT PRESENT THE AVAILABLE EQUIPMENT IS FULLY UTILISED IN THE SHIPSIDE OPERATIONS CHAIN. THERE WILL HAVE TO BE AN INDUSTRIAL RELATIONS DEMARCATION AGREEMENT NEGOTIATED REGARDING THE OPERATORS FOR THE TRUCK LOADING EQUIPMENT. WHAT IT BOILS DOWN TO IS THAT IF THE ROAD TRANSPORT OPERATORS WANT TO EXERT MORE INFLUENCE OVER CONTAINER TERMINAL OPERATIONS THEN THEY WILL HAVE TO INVEST IN THE INFRASTRUCTURE.

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...a delay of one hour or in the movement of containers through a stevedoring terminal on the land side cost the road transport industry \$5000 an hour. That's quite a significant amount of money in our view and it's ultimately the exporters and importers that pay for that. SEE ABOVE COMMENT.

Page 7 PROF SLOAN: What do you think the basic cause of - I was just going to say it seems to me that there's not much of a sort of notion of door-to-door service in all of this, is there?

COMMENT WHEN CONTAINERISATION STARTED IN AUSTRALIA IN THE EARLY 1960'S IT WAS A DOOR-TO-DOOR SERVICE FULLY PROVIDED FROM PRODUCERS' MELBOURNE WHARE HOUSE TO CONSUMERS' PERTH WHARE HOUSE (AND VICE VERSA) BY THE AUSTRALIAN SHIPOWNER ASSOCIATED STEAMSHIPS (ASP). ONCE THE OVERSEAS SHIPOWNERS GOT INVOLVED AND ROAD HAULIERS AND AUSTRALIAN RAIL DOOR TO DOOR CLOSED DOWN ASP SERVICES BECAME FRAGMENTED.

Page 7/8 PROF SLOAN: What do you think are the primary causes of these delays? You've talked generally about their emphasis on getting the containers off the ships. MR McMASTER: We think the primary causes of delays are probably alluded to in the recent ACCC report - that is, that there is probably inadequate capital investment in terms of cranes and inadequate manpower or personnel deployed to those cranes to the land side. The reason is that the stevedores know that if there is a hold-up on the land side, there is no financial penalty to them so they, as a routine company policy, allocate resources to the ship side first. It's fair to say that those stevedores at the moment are spending a bit of money on improving both the amount of terminal space, the efficient use of that terminal space and also they have recently, or are proposing to acquire more cranes. But they are really only catching up. A lot of the equipment is old. There have been some pretty serious breakdowns, particularly at one of the terminals last year where a lot of cranes were out of action which caused huge delays on the land side, and I think even the ACCC report suggests that - and we agree with that - the lack of equipment is causing congestion in the container chain, especially at peak times of the year such as around now. COMMENT. MY POINT PRECISELY. SOME OF THE CRANES ARE 20 TO 25

YEARS OLD. IF ROAD TRANSPORT WANTS IMPROVED TRUCK TURN ROUND THEY MUST BE PREPARED TO INVEST IN EQUIPMENT THEMSELVES BY GOING INTO PARTNERSHIP WITH THE TERMINAL OPERATORS/SHIPOWNERS.

Page 14 PROF SLOAN: It may be more relevant to Part X than you even realise because, of course, Part X enforces a relationship between the shipping lines and the stevedores because the shipping lines negotiate the rates with the stevedores. So there is a kind of issue there, too. COMMENT YES THAT IS AT THE CORE OF THE INVESTIGATIVE PROCESS. IF SHIPOWNERS WERE FORCED OUT OF THEIR PRESENT PROTECTIVE COCOON MUCH IN THE WAY OF THE PRESENT CLEARANCE FROM AND TO TERMINALS DELY WOULD BE ALLEVIATED.

MR MOYLAN: We certainly see that as - for want of a better description - a devolution of the power relationship that the shipping lines have over the stevedores and then that translates into the stevedores exercising their power over the other stakeholders. COMMENT. WHILST THE PRESENT WHARF SIDE INFRASTRUCTURE ARRANGEMENTS ARE IN PLACE THERE WILL BE NO CHANGE IN THE POWER OF THE SHIPOWNERS TO DICTATE THE TERMS OF DELIVERY TO TRANSPORT OPERATORS. THE ONLY WAY CHANGE CAN TAKE PLACE IS THAT THE "DIVIDED CONTROL" ARRANGEMENT WHERE THE SHORE SIDE OPERATIONS ARE IN THE HANDS OF A PORT AUTHORITY* AND THE STEVEDORE IS RESPONSIBLE ONLY FOR SHIP BOARD OPERATIONS.

* THIS WAS THE CASE IN FREMANTLE UP TO 1990 AND I UNDERSTAND IS STILL THE CASE IN SINGAPORE.

MELBOURNE HEARINGS

MR BEAUFORT: We've been concerned about the powers of stevedores.

PAGE 70 PROF SLOAN: Yes.

MR BEAUFORT: They have, from time to time, negotiations with shipping lines, obviously - the conferences - and we've some concerns that shipping lines accept rates which have been accepted because they can pass them on. That might not be quite true, but the fact is that we would like to be involved in the negotiations between stevedores and shipping lines, just to see what goes on. The stevedores have totally rejected our approaches in the past, because they say, "You're not the client, the shipping line is the client. What they do with you is something between you and the shipping line."

PROF SLOAN: That is underpinned by Part X, of course, that ? ? ?

MR BEAUFORT: Yes, and we would like to be able to have access to the negotiations of the stevedores and the shipping lines. I'm not sure how we can do that, but they are companies with significant market power, and that's the thought. The ACCC has been having a bit of a barney with Chris Corrigan recently. I'm not sure that all of it's justified, but the fact is they are very powerful. We really only have two stevedores in this country operating as a duopoly, and it has always been a concern of mine.

COMMENT THERE IS NOW A STEVEDORING DUOPOLY WHERE THERE WAS PRE-CONTAINERISATION ABOUT 56 SEPARATE STEVEDORING COMPANIES IN AUSTRALIA, SOME WERE LOOSELY JOINED PORT-BY-PORT BUT ALL BUT FOUR WERE OWNED BY SHIPOWNERS EITHER OVERSEAS OR AUSTRALIAN. NOW WE HAVE P&O (PURE SHIPOWNERS) AND PATRICKS (HAVING SOME SHIPOWNER CONNECTIONS). UNTIL THIS DUOPOLY IS BROKEN LITTLE WILL BE ACHIEVED FOR THE "PUBLIC BENEFIT". I STRONGLY SUGGEST THAT THE ABOLITION OF PART X WILL HELP TO BREAK THAT DUOPOLY BECAUSE MANY SHIPOWNERS WILL BE COMPETING FOR A STEVEDORING SERVICE WHICH ONLY TWO STEVEDORES WILL NOT BE ABLE TO PROVIDE WITHOUT BEING CHARGED WITH HAVING A CONFLICT OF INTEREST.

Until I can obtain some further data about seafreight costs from ABS other than the very broad figures in Table 7 publication 5368.0, I can't comment further about what protection part x gives foreign shipowners, which is most certainly against "the public benefit". It seems that some of the people appearing before you had difficulty defining "public benefit" but then everyone has their own priorities.

Tony Fletcher (Dr)