



**NATIONAL BULK
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9 November 2010

National Competition Council
Level 9, 128 Exhibition Street
Melbourne Vic 3000

Attention: Ms Jessamine Lumley

Dear Ms Lumley

Re: Application for certification of the South Australian Ports Access Regime

Receipt is acknowledged of your e-mail dated 20 October 2010 suggesting that the National Bulk Commodities Group Inc (NBCG) may have an interest in the application by the Premier of South Australia to have the South Australian Ports Access Regime declared an effective access regime in accordance with s44M of the *Trade Practices Act 1974* (Cth) (TPA).

The NBCG has an interest in this matter and will articulate its position in this response.

The NBCG

The NBCG is the peak national body representing Australia's dry bulk commodity shippers and receivers. The aim of NBCG is to represent the collective interests of its members on issues connected with the production, transportation, storage, loading, unloading and shipment of Australia's dry bulk commodities.

Importantly, the principal focus of NBCG is the promotion of efficient and quality maritime services that are available to Australian shippers at internationally competitive prices.

The Australian Maritime Safety Authority (AMSA) records show that in 2008/2009 there were 22,101 foreign flag vessels calls at Australian ports and of this total 9,503 were dry bulk carriers. Dry bulk carriers therefore represented 40.3% of all foreign flagged ship visits. Australia's dry bulk export and import task is exclusively carried in foreign flagged dry bulk carriers.

Australia's annual dry bulk task (exported, imported and shipped domestically) is approximately 700 million tonnes.

The NBCG shares a common position with ship owner representatives (Shipping Australia Limited and the Australian Ship Owners Association) as well as the ports advocacy group Ports Australia on a number of issues concerning maritime cost efficiency.

The principal area of differentiation between the NBCG and ship owner advocates is related to commercial issues, where freight rates and/or charter party issues have the capacity to become points of difference.

As a generalisation, the NBCG becomes involved in maritime issues that have the potential to impact on either freight rates and/or charter hire.

A list of current NBCG members is attached.

Present Access Regime

The executive of the NBCG has read the South Australian Government's submission to the National Competition Council and recognises that the South Australian *Maritime Services (Access) Act 2000* was intended to achieve the following outcomes:

- Provide access to maritime services on fair and commercial terms
- Facilitate competitive markets in the provision of maritime services
- Protect the interests of users of essential maritime services by ensuring that regulated prices are fair and reasonable for the industry concerned; and
- Ensure that disputes about access are dealt with efficiently.

NBCG's competitive philosophy

Members of NBCG conduct their commercial activities in a highly competitive market both nationally and internationally and strongly support market driven solutions to access regimes.

However, in cases dealing with access regimes in ports where the market is limited and expenditure on capital assets is significant, the NBCG acknowledges that in the case of a sole provider model Government oversight (monitoring) is the most economically efficient tool available.

The NBCG recommends that at least one person in the monitoring group should have operational and financial experience in the activities of the essential service being monitored.

The Clause 6 clauses have provided both the South Australian government and industry with pricing and efficiency certainty that are consistent with the public's desire for transparency and accountability when essential maritime services are not tested through parallel or serial competition channels.

The NBCG therefore suggests that the above four dot points have delivered the outcomes the Essential Services Commission of South Australia (ESCOSA) intended.

Additional essential services

The NBCG notes that towage is not included as an essential or regulated service in South Australian *Maritime Services (Access) Act 2000* (the MSA Act).

Studies identified by the NBCG show that towage is the highest charge faced by a ship operator at Port Giles and the second highest after Cargo Service Charge at other five proclaimed South Australian ports.

Given the present volume of towage movements in South Australian ports and the forecast growth in port activity; NBCG members do not see towage volumes reaching a level where parallel competition becomes both sustainable and commercially attractive.

To ensure a degree of competitive tension is maintained in the South Australian towage market, the NBCG suggests:

1. That towage be added as an Essential Maritime Service under the MSA Act;
2. ESCOSA conduct either a serial competition tender for the port of Adelaide (combined inner and outer harbours) and the towage services at the other five proclaimed South Australian ports being added as an Essential Maritime Service under the MSA Act and monitored; or

3. ESCOSA monitor all six (6) proclaimed South Australian ports once they have been added as an Essential Maritime Service under the MSA Act.

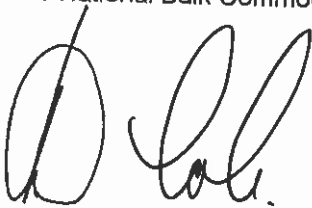
Again the NBCG suggests that at least one person in the monitoring group should have operational and financial experience in the towage industry.

The NBCG is happy to further discuss any of the issues raised in this letter should the National Competition Council agree there would be merit in having such a dialogue.

Disclosure

The author of this response consulted to ESCOSA between June 2002 and July 2007 identifying, through benchmarking exercises, the relative competitive position of the six proclaimed South Australian ports against those handling similar tonnage and type of cargoes in other Australian ports.

Yours faithfully
For National Bulk Commodities Group Inc

A handwritten signature in black ink, appearing to read 'Dale Cole', written in a cursive style.

Dale Cole
Executive Chairman

LIST OF NBCG MEMBERS

Members:

BHPB Freight Pty Ltd

CBH Grain Pty Ltd

Minerals Council of Australia

Queensland Alumina Limited

Queensland Sugar Limited

Rio Tinto Shipping Pty Limited

Associate Members:

Australasian Institute of Marine Surveyors

CSL Australia

Fertilizer Industry Federation Australia

Gladstone Ports Corporation

Inchcape Shipping Services Pty Ltd

Inco Ships Pty Limited

North Queensland Bulk Ports

Pacific Basin Shipping (Australia) Pty Ltd

Penrice Soda Products Pty Ltd

Sanko-Kisen (Australia) Pty Limited

Strang International Pty Ltd