

AUSTRALIAN PEAK SHIPPERS ASSOCIATION INC.

Cert No. A0044418W

1ST FLOOR, 68-72 YORK STREET
SOUTH MELBOURNE 3205

ABN 20 947 496 918

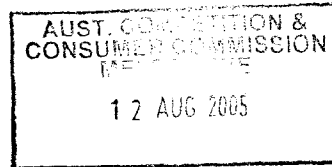
PO BOX 244
SOUTH MELBOURNE 3205

Phone: (03) 9690 9080

Fax: (03) 9690 9087

11 August 2005

*MA 12/8
→ RVI DS*



Ms Margaret Arblaster
General Manager
Transport & Price Oversight Branch
Australian Competition & Consumer Commission
GPO Box 520J
MELBOURNE VIC 3001

C2006/603

FILE No:	205/49447
DOC:	D06/18983
MARS/PRISM:	

Dear Ms Arblaster,

**RE: AUSTRALIAN PEAK SHIPPERS ASSOCIATION (APSA)
VS AUSTRALIA TO EUROPE LINER ASSOCIATION (AELA)**

APSA is the designated Peak Shipper Body under Part X of the Australian Trade Practices Act and its role is to represent Australia's liner shipping exporters in negotiations with Shipping Conferences, Consortia and Alliances.

Summary

On 13 July 2005 AELA advised APSA that it would be increasing outwards Terminal Handling Charges (OTHCs) with effect from 28 July 2005 (ATTACH 1).

APSA then requested information under S.10.41 to satisfy APSA that the new charges were justified (ATTACH 2).

AELA has refused to provide the information that APSA has requested although it has a statutory obligation under S.10.41 to do so (ATTACHS 3 & 4).

APSA therefore claims that AELA has breached S.10.41 and requests that ACCC investigate the matter including the sighting of current and previous terminal contracts to show that these new charges are justified.

History

In June 2000 AELA, and other conferences, imposed OTHCs at Australian ports despite APSA's objections on the basis that APSA could not take a part in negotiations between terminals and conferences, and as such there was no way of knowing whether the initial OTHCs were genuine or false.

APSA wrote to the ACCC sometime after June 2000 requesting that an investigation be undertaken into the way OTHCs had been agreed by all Shipping Conference and were possibly illegal.

Unfortunately ACCC was unable to establish any 'wrongdoing' and OTHCs have been a matter of concern to exporters ever since.

Since June 2000 there has been several increases to OTHCs by various Shipping Conferences and on each occasion conferences have provided information to APSA to justify any increase.

However, in this case, AELA has refused to 'cooperate' and APSA therefore seeks the assistance of the ACCC to gain access to terminal contracts.

Yours Sincerely,



Frank Beaufort
Executive President

ATTACHS

AUSTRALIA TO EUROPE LINER ASSOCIATION

LEVEL 6, 131 YORK STREET, SYDNEY, NSW, 2000, AUSTRALIA

POSTAL ADDRESS: PO BOX 0388, SYDNEY, NSW, 1230

TELEPHONE: (02) 9266 9905 FACSIMILE: (02) 9268 0230 EMAIL: morched@shippingaustralia.com.au

FACSIMILE

Circ. No. 0424

13 July 2005

To: Mr. F. Beaufort
Executive President
APSA
Melbourne

From: K Ale-Davoodi

Dear Frank,

Two Pages

AELA – INCREASED OTHC's

Following protracted negotiations with Lines Stevedore, Members have recently signed a contract with stevedores in Brisbane, Sydney, Melbourne and Fremantle which resulted in increased handling charges of 2.6% from 1 April, 2005. Member Lines have been absorbing these costs since 1 April, but in order to recover future costs Lines will be increasing their current OTHC's to the following levels from 28 July, 2005.

Sydney	Dry	From A\$180/container to A\$185/container
	Reefer	From A\$310/container to A\$318/container
Melbourne	Dry	From A\$180/container to A\$185/container
	Reefer	From A\$310/container to A\$318/container
Brisbane	Dry	From A\$180/container to A\$185/container
	Reefer	From A\$310/container to A\$318/container
Fremantle	Dry	From A\$180/container to A\$185/container
	Reefer	From A\$310/container to A\$318/container

Informatively, the stevedoring costs have not changed in the last 5 years.

We attach a copy of a 'Notice to Shippers' which we will be placing with LL DCN advising the Trade of increased OTHC charges on full containers being introduced by the Stevedores in Sydney, Melbourne, Brisbane and Fremantle from 28 July, 2005.

Members would be prepared to arrange a meeting so that you could sight the new stevedoring charges and we would appreciate if you could confirm your acceptance of the above increases at your earliest opportunity.

Kind Regards,

K Ale-Davoodi
AELA Trade Administrator

ATTACH 1.

V. 819

AUSTRALIA TO EUROPE LINER ASSOCIATION (AELA)

NOTICE TO SHIPPERS

AUSTRALIAN ORIGIN TERMINAL HANDLING CHARGE (OTHC)

The AELA Member Lines announce that the following increased Origin Terminal Handling Charges will apply to all dry and refrigerated containers of cargo received into the carrying Line's control on/from 28 July, 2005 -

Sydney	Dry	A\$185/container
	Reefer	A\$318/container
Melbourne	Dry	A\$185/container
	Reefer	A\$318/container
Brisbane	Dry	A\$185/container
	Reefer	A\$318/container
Fremantle	Dry	A\$185/container
	Reefer	A\$318/container

These revised charges reflect increased costs implemented by the Lines' stevedores, from 1 April, 2005.

The first vessels to attract these revised charges will be:

P&ONL Remuera (Voy. 5127)	ETA Melbourne 1 August, 2005
PONL Yara Valley (Voy. 5525)	ETA Sydney 2 August, 2005

The Australian Peak Shippers' Association (APSA) has been advised of these increased OTHC's.

For and on behalf of: AELA Member Lines: CMA CGM, Compagnie Maritime Marfret, Consortium Hispania Lines, Contship Container Lines (a division of CP Ships [UK] Ltd), Hamburg Sud, Hapag-Lloyd Container Line GmbH, P&O Nedlloyd Ltd.

Shipping Australia
Sydney
13 July, 2005

AUSTRALIAN PEAK SHIPPERS ASSOCIATION INC.

Cert No. A0044418W

1ST FLOOR, 68-72 YORK STREET
SOUTH MELBOURNE 3205

ABN 20 947 496 918

PO BOX 244
SOUTH MELBOURNE 3205

Phone: (03) 9690 9080

Fax: (03) 9690 9087

Facsimile No: (02) 9268 0230	Attention: K A DAVOZI
Company: AELA	
Sender: FRANK BEAUFORT	Date: 14-7-05 am/pm
Number of Pages including cover sheet: 1	IF YOU DO NOT RECEIVE ALL PAGES IN LEGIBLE CONDITION, PLEASE CONTACT THE SENDER
Subject: AELA OTHERS.	

YRS OF 13/7 THANKS.

APSA WILL NEED TO SIGHT CURRENT AND THE PREVIOUS CONTRACT FOR COMPARISON PURPOSES. THESE CONTRACTS NEED TO BE PRESENTED IN FULL AND NOT IN ABRIDGED VERSIONS.

A MEETING DURING W/COMM. 18/7 WOULD BE APPROPRIATE, am wed. 20/7 EXCLUDED.

ATTACH 2.

Rgd.

CONFIDENTIALITY
GRANTED

3. OTHCs

Member Lines have noted from APSA's fax of 14 July that they need to sight current and previous contracts. From the attached letter from P&O Ports, you will see that the contract terms and conditions are confidential which prevents Member Lines from meeting APSA's request. However, P&O Ports' letter confirms a 2.6% increase on their previous charges contained in their base and ancillary tariffs.

Regards,

M K Orchard
M K Orchard
AELA Manager

22/7/05

ATTACH 3

**P&O Ports Limited**

ABN 52 000 049 301
160 Sussex Street
Sydney NSW 2000

GPO Box 4084
Sydney NSW 2001

21 July 2005

Mr Martin Orchard
Shipping Australia Limited
Level 6, 131 York Street
Sydney
NSW 2000

Dear Martin,

Contract Renewal – ANZ Alliance Consortium

We have been requested by the members of the ANZ Alliance Consortium to confirm to you the details of their recent contract renewal, in order for discussions to be held with APSA.

Without disclosing the contract terms and conditions, which are confidential, I can confirm that an increase of 2.6% has been agreed across all tariff items, effective from 1 April 2005.

Yours sincerely,

Sean Barrett
Commercial Director – Container Services
P&O Ports Australia & New Zealand

Tel: (612) 9364 8797
Fax: (612) 9364 8855
Email: sean.barrett@poports.com.au

Cc: Mr Peter D'Arcy – P&O Nedlloyd (on behalf of ANZ Alliance members)

ATTACH 4.

**P&O Ports Limited**

ABN 52 000 049 301
160 Sussex Street
Sydney NSW 2000

GPO Box 4084
Sydney NSW 2001

21 July 2005

Mr Martin Orchard
Shipping Australia Limited
Level 6, 131 York Street
Sydney
NSW 2000

Dear Martin,

Contract Renewal – ANZ Alliance Consortium

We have been requested by the members of the ANZ Alliance Consortium to confirm to you the details of their recent contract renewal, in order for discussions to be held with APSA.

Without disclosing the contract terms and conditions, which are confidential, I can confirm that an increase of 2.6% has been agreed across all tariff items, effective from 1 April 2005.

Yours sincerely,

Sean Barrett
Commercial Director – Container Services
P&O Ports Australia & New Zealand

Tel: (612) 9364 8797

Fax: (612) 9364 8855

Email: sean.barrett@poports.com.au

Cc: Mr Peter D'Arcy – P&O Nedlloyd (on behalf of ANZ Alliance members)

ATTACH 4.

AUSTRALIAN PEAK SHIPPERS ASSOCIATION INC.

Cert No. A0044418W

1ST FLOOR, 68-72 YORK STREET
SOUTH MELBOURNE 3205

ABN 20 947 496 918

PO BOX 244
SOUTH MELBOURNE 3205

Phone: (03) 9690 9080
Fax: (03) 9690 9087

3 June 2005

M Orchard
AELA Sydney

Fax: (02) 9268 0230

Dear Martin

RE: AELA OTHCs

Your fax of 22/7/05 refers. AELA has a statutory obligation to provide the information requested by APSA.

However as AELA is not prepared to provide the information to APSA you can provide it to the ACCC.

Regards



Frank Beaufort
Executive President