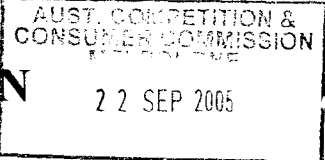


AUSTRALIA TO EUROPE LINER ASSOCIATION

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Mr D Salisbury
Director
Transport and Prices Oversight
Australian Competition and Consumer Commission
GPO Box 520J
Melbourne
Victoria 3000

20 September 2005

FILE No:	
DOC:	D05/56852
MARS/PRISM:	

D06/18912

Dear Mr Salisbury,

We acknowledge receipt of your letter dated 7 September advising us of your receipt of a complaint from APSA in relation to an increase in outward terminal handling charges (OTHCs) by the Australia to Europe Liner Association (AELA).

We wish to make the ACCC aware of the following points:

- On 13 July, AELA Members wrote to APSA advising that they had recently concluded negotiations with their stevedore resulting in an increase in the stevedore's charges in Brisbane, Sydney, Melbourne and Fremantle of 2.6% from 1 April, 2005. Although Members had been absorbing this increase in stevedoring charges since 1 April, they advised APSA that they intended to introduce the increase from 28 July, 2005.
- This increase in the stevedoring charges resulted in an increase in their OTHCs in these Ports for dry cargo from A\$180/container to A\$185/container, and for reefer cargo from A\$310/container to A\$318/container.
- In their fax to APSA of 13 July, Members pointed out to APSA that this was the first increase in their OTHCs in five years, since they were first introduced in 2000.
- In addition, Members said that they would be prepared to meet APSA to enable them to sight the new charges.
- In their reply of 14 July, APSA said they would need to sight current and the previous contract for comparison purposes, and the contracts needed to be sighted in full, not in an abridged version. APSA suggested a meeting be held during the week commencing 18 July.
- AELA Members replied on 22 July attaching a letter from P&O Ports which stated that the contract terms and conditions were confidential, but they confirmed that a 2.6% increase had been agreed across all tariff items effective from 1 April, 2005. For your reference, we attach a copy of P&O Port's letter.
- In their fax of 22 July, APSA said that they continued to request sighting of stevedoring contracts to confirm that any increases in OTHCs were justified, and that letters between Lines and Stevedores did not provide that evidence.

- In their fax of 11 August, APSA brought to AELA's attention that they had a statutory obligation to provide the information requested by APSA. However, as AELA was not prepared to provide the information to APSA, they could provide it to the ACCC.
- AELA replied to APSA on 15 August stating that they believed that under Part X they were obliged to provide APSA with information which was considered reasonably necessary for a negotiation, and with this in mind they attached a spreadsheet which provided details of P&O Ports' Base Tariff charges in 2005 compared to 2004 which confirmed the 2.6% increase. AELA once again pointed out to APSA that this 2.6% increase to their OTHCs was the first increase since August 2000, and when taking into account the overall cost increases that had occurred during this five year period, had to be viewed as being within the bounds of reasonableness. For your reference, we attach a copy of this spreadsheet.

As mentioned above, the terms and conditions contained within the contract that AELA Members have with P&O Ports is confidential, and there is a confidentiality clause built into the text of the contract which is a standard requirement from the terminal operator.


AELA Members make the point that when they first introduced OTHCs in 2000, on a revenue-neutral basis, APSA did not request Member Lines to show them their stevedoring contracts. Furthermore, at the time APSA did not accuse the Lines of contravening section 10.41 of the Act.

Member Lines wish to reiterate the fact that this increase of 2.6% is the first increase in their OTHCs since August 2000, and during the intervening period prices have increased, and this fact would be confirmed by the ACCC's own monitoring of stevedoring prices.

During the exchange of correspondence between AELA Members and APSA, at no time did APSA provide any contrary information for the Lines' consideration.

Given the facts as outlined above, AELA Members believe that APSA is being unreasonable in continuing to request to sight the contracts.

Yours sincerely,



M K Orchard
AELA Manager



P&O Ports Limited

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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

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

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

Confidential spreadsheet
excluded.