

SUBMISSION TO THE TREASURY REGARDING THE FINAL REPORT OF THE NATIONAL COMPETITION POLICY REVIEW

There are many conclusions and recommendations in the final report which can be strongly supported such as those relating to changing our coastal shipping policy regime to liberate its potential to take more freight off our congested highways. One area where the Panel failed miserably, in my opinion, is the discussion and conclusions/recommendations relating to Part X of the Australian Competition and Consumer Act, 2010 (Cth) covering the regulation of international Liner shipping serving the Australian overseas trades.

In many ways it was a missed opportunity to highlight the competitive benefits of this light handed regulatory regime which importantly encompasses the holistic implementation of a whole of Government policy approach to the regulation of international liner shipping with an important focus on but not solely related to competition policy.

One of the more serious misstatements of fact in this section of the report relates to the allegation that Part X does not support competitive outcomes. The Panel asserts that Part X does not require an assessment of the anti-competitive effects when registering an Agreement between shipping Lines. This is simply not true. The Objects of part X include "permitting continued conference operations while enhancing the competitive environment for international liner cargo shipping services through the provision of adequate and appropriate safeguards against abuse of conference power." There are other references to means of promoting competition throughout Part X. A more serious and specific investigation of the impact of the operation of part X would have drawn a completely different conclusion.

Another area that could be construed as misleading is the comment that international liner shipping has similar economic characteristics to other industries such as international aviation without any reference to the fact that the capacity offered by international aviation carrying passengers is strictly controlled via Government to Government Air Service Agreements. The larger volume of airfreight is carried in the belly holds of passenger aircraft. International liner shipping, on the other hand, suffers seriously from chronic excess capacity which more often than not applies serious downward pressure on prices. World-wide regulation of international liner shipping is based on its unique economic characteristics combined with the demand for high levels of scheduled services to container exporters and Importers.

The points made in the majority of submissions to the Panel that mentioned Part X and supported its retention are simply not addressed. The fact that four of the last five specific reviews of Part X since 1977, supported its retention with some important amendments (because any system of regulation can always be improved in its effectiveness), appears to have completely escaped the Panel.

I strongly urge the Government to disregard the recommendation to repeal Part X.