Australian Peak Shippers Association Inc.

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Submission to the Upper House Inquiry into the Proposed Bill Covering the Lease of the Port Of Melbourne.

The Australian Peak Shippers Association Inc. (APSA) and its members are not philosophically opposed to privatisation of public assets but we do assert that there should be adequate regulation surrounding such sales that protect those utilising said entities now and in the future.

Having said that we do have concerns with the content or lack there of contained in this particular proposed legislation. The intent of the Bill, indeed its aim should be to ensure that users of the port and its precincts are protected from price gouging of any sort.

It seems to us that there are three main areas where a monopoly port operator can increase prices:

1. Terminal and other precinct Rents.
2. Port charges, which are applied by the port to shipping lines as ship, based charges such as tonnage and cargo based fees such as wharfage charges.
3. New charges that the port operator see fit to introduce for infrastructure investments or separate out current costs covered under single service charges to establish new fees. These may be directed at shipping lines or stevedores but at the end of the day they will be passed down the line with cost plus factors added in to the shippers – the exporters and/or the importers.

The regulation, as we see it, covers only the second of these three categories listed above, that of Port Charges. This leaves the other two categories as unregulated and offers the port operator the opportunity to set his own agenda relative to fees and charges in these two areas.

We note that in recent weeks sanity has prevailed and the negotiations with DP World Australia for a rental agreement at West Swanson Dock has been agreed at what appears to be a sensible increase going forward by maximum of CPI until 2025, but the question is what if any is the capping after that, is there going to be hefty increase and if so, has thought been

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given to consequences that will have on the tenants, other service providers, shippers and the affective downturn in throughput at the port.

There appears to be little or nothing in the legislation that will stop vertical integration by the incumbent port operator if at a later date he sees an opportunity to be involved, either directly or indirectly, in operations of those service providers within the port precinct. Such vertical integration would take competition out of the equation for shippers by forcing costs and conditions on the incumbents while at the same time attempting to win their business away from them.

The legislation as it stands relies on the Minister of the day presiding over the Essential Services Commission making an order that implements the regulatory regime but there is little detail that tells us what triggers an order to look into any irregularities.

The ACCC appears to be excluded from any oversight of lease agreements or otherwise to test and ensure that anti competitive elements don't prevail.

There appears to be movement away from the previously held notion that the development of a second port is significant in the near future and that if it does appear on the horizon then the successful bidder who operates the port will be entitled to compensation in lieu of business that moves to the new port. Offering compensation severely restricts competition between the ports by giving the incumbent an unfair advantage not to mention the use of public monies that could be directed to more urgent needs.

We are aware that the Treasurer intends to recover the Port License Fee (PLF) as an up front lump sum for the life of the lease (estimated at $3.5 billion) from the successful purchaser. The affect of this will be that the interest bill incurred by the buyer will be passed onto his tenants and inturn passed to all in the chain with a cost plus element added at every stage until it reaches the shippers at the end of the chain. Why place this unnecessary burden on the port users. If the government needs to borrow money then be up front about it. It is bad enough that port users are burdened with this form of a tax without having to pay interest on it also.

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The Australian Peak Shippers Association Inc. (APSA) has already stated that it supports privatisation of the port but not if it means that the cost of doing business through the port will escalate beyond fair and reasonable margins because of a lack of sufficient regulation that would prevent this from happening. We recommend that the following points be incorporated into the legislation:

1. Price monitoring regimes be strengthened and expanded to give clarity of the intention to keep costs in check.
2. Remove the availability of compensation in the event of a second port being developed to cater for an increased volume of movements by exporters and importers.
3. Do away with the notion of insisting on the PLF to be paid up front for the life of the lease and therefore take the burden of additional interest being paid by port users.
4. Nothing is mentioned regarding the retention of the ancillary services currently offered by the Port of Melbourne Corporation at no charge to users of the port. There is a need to ensure these facilities are maintained.
5. Require parliamentary agreement to allow the lease to extend beyond the stated term of 50 years.

Robert Coode,

Executive President, APSA

7th September 2015.