

“KEEPING AUSTRALIA’S INTERNATIONAL TRADE MOVING”



FTA
FREIGHT & TRADE ALLIANCE



Australian Peak Shippers
Association Inc. (APSA)

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AUSTRALIA JOINS INTERNATIONAL COMPETITION AUTHORITIES TO TARGET POTENTIAL SUPPLY CHAIN CRIMINAL COLLUSION

The *Canadian Competition Bureau* announced overnight that they are combining forces with the *US Department of Justice*, the *Australian Competition and Consumer Commission (ACCC)*, the *New Zealand Commerce Commission* and the *UK Competition and Markets Authority* in a new working group focussed on sharing information to identify and prevent potentially anticompetitive conduct in the global supply and distribution of goods.

This announcement follows a speech by the Australian Prime Minister at the recent *World Economic Forum* calling on world leaders to do more in the form of new partnerships between countries, governments and businesses to increase the resilience of global supply chains.

Global demand for containerised shipping capacity is at an all-time high, primarily generated by the pandemic driven surge of import cargo, restricted shipping capacity and poor operational performance in many key international ports. This has caused the erratic positioning of container equipment, significant spikes in freight rates, escalation of surcharges and an all-time low in reliability of services.

In response to the formation of the working group, *Matthew Boswell, Commissioner of Competition* said, “*While the Competition Bureau has offered businesses flexibility in contributing to legitimate pandemic response efforts that benefit Canadians, we want to be clear: we have zero tolerance for any attempts to use pandemic-related supply chain disruptions as a cover for criminal collusion that harms consumers and damages Canada’s economy.*”

Similarly, New Zealand Commission Chair *Anna Rawlings* said, “*We still have zero-tolerance for unscrupulous businesses using Covid as an opportunity for cartel conduct, such as non-essential collusion between competitors or anti-competitive behaviour. The international working group will strengthen our continued efforts to deter and penalise cartel conduct.*”

Michael Grenfell, Executive Director of Enforcement at the UK Competition and Markets Authority added, “*These are global issues that are best addressed together. With support and intelligence from partner agencies across the world, we can step in and take enforcement action if we find evidence of anti-competitive behaviour taking place.*”

In an Australian context, exporters are fighting over available equipment and capacity to reach key markets. Importers are failing to get regular supply, resulting in the emergence of new models of onshore stockpiling and resultant inflationary pressures being felt across the Australian economy.

In parallel, foreign owned shipping lines are proudly reporting multi-billion dollar profits with many using their new-found wealth to make strategic vertical integration supply chain investments with some now refusing to enter contractual arrangements with third party freight forwarders and leaving exporters and importers at their mercy as ‘price-takers’.

Paul Zalai, Director Freight & Trade Alliance (FTA) and Secretariat Australian Peak Shippers Association (APSA) welcomes the breaking news “*We continue to provide evidence of prejudicial shipping line practices, surcharges and freight rates increases. Further investigation is essential as one thing is for certain, we are operating in a shipping line market without genuine competitive tension.*”

“*The collaboration between governments is a tremendous starting point as one nation alone cannot oversee the conduct of foreign owned shipping lines and examine the full conduct of their powerful alliance activities*” *Zalai* says

FTA / APSA provided a detailed submission to the *Productivity Commission* in response to the current independent review into long-term structural issues affecting the productivity of Australia's maritime logistics system. The evidence from Australia's leading trade advocacy bodies acknowledged the need for collaboration between government competition regulators and provided evidence of long-term trends that are adversely impacting the overall competitiveness of Australian exporters and importers.

The submission recommended current protections provided to foreign owned shipping lines under *Part X of the Competition and Consumer Act* be repealed and that shipping line conduct be regulated by the Australian Competition and Consumer Commission, or the creation of a federal maritime regulator, to safeguard the commercial viability of Australian traders.

The FTA / APSA submission also calls for minimum service levels and notification periods, infrastructure investment, regulation of container detention practices, waterfront industrial relations reform, implementation of Biosecurity reform priorities and an extension of short-term aviation funding.

FTA/APSA SUBMISSION TO THE PRODUCTIVITY COMMISSION SUMMARY OF RECOMMENDATIONS

FTA/APSA Submission – refer [HERE](#)

RECOMMENDATION 1 (shipping competition review) – repeal of *Part X of the Competition and Consumer Act 2010*, with retention of shipper collective bargaining provisions, leaving two options:

(1) foreign owned shipping lines to operate in line with competition laws faced by other businesses involved in Australian commerce; or

(2) if deemed necessary for foreign owned shipping lines to have ongoing protections, expand the role of the ACCC (or introduce a federal maritime regulator) to administer processes to safeguard exporter and importer's interests, in particular, monitoring the appropriateness of shipping line (and contracted stevedore / empty container park) surcharges, fees and penalties.

RECOMMENDATION 2 (minimum service levels and notification periods) – introduction of an appropriate regulatory framework that provides exporters, importers and freight forwarders safeguards against 'exclusive dealings', ensuring minimum service levels and prescribed variation notification periods (minimum 30 day notice as per US regulation).

RECOMMENDATION 3 (infrastructure investment) – increase investment in infrastructure to address inefficiencies in the supply chain caused by larger ships, lack of rail access to Australian container ports and shortage of space in empty container parks.

RECOMMENDATION 4 (regulation of Terminal Access Charges) – the scope of the National Transport Commission (NTC) review of Terminal Access Charges be expanded to examine the potential of regulation to force stevedores (and empty container parks) to cost recover directly against their commercial client (shipping line) rather than via third party transport operators.

RECOMMENDATION 5 (regulation of container detention practices) – the need for federal government action and potential regulation, similar to US Federal Maritime Commission (FMC), to ensure reasonable container detention policies are administered.

RECOMMENDATION 6 (waterfront industrial relations reform) – the Federal Government to initiate a formal waterfront industrial relations review to provide immediate and future business continuity for what is an 'essential service' and our international gateway for major supply chains.

RECOMMENDATION 7 (implementation of Biosecurity reform priorities) – ongoing engagement and reporting between the Department of Agriculture, Water and the Environment and industry to achieve the four reform priorities identified in the Inspector-General of Biosecurity (IGB) report [Adequacy of department's operational model to effectively mitigate biosecurity risks in evolving risk and business environments](#) being:

(1) Regulatory maturity;

(2) Risk pathway partnership;

(3) Frontline focus; and

(4) Sustainable funding model.

RECOMMENDATION 8 (extension of IFAM funding) – the Federal Government should allocate additional funds to maintain the International Freight Assistance Mechanism (IFAM) and / or similar financial relief measures to support the air cargo supply chain sector until the end of 2023 (at minimum), with actual allocation of funds subject to periodic reviews pending the return of international passenger flight services.

ABOUT FTA / APSA

Freight & Trade Alliance (FTA) is Australia's leading representative body for the international supply chain sector bringing together importers, exporters, customs brokers, freight forwarders, logistics service providers and industry groups. FTA also manages the Secretariat for the Australian Peak Shippers' Association (APSA) being the peak body as designated by the Federal Minister of Infrastructure and Transport to protect the interests of Australia's cargo owners and shippers in respect to shipping and international logistics services.

FTA / APSA represents more than 500 corporate members and provide international trade and logistics advocacy to the following associations:

- Australian Cotton Shippers Association (ACSA);
- Australian Council for Wool Exporters and Processors;
- Australian Dairy Products Federation;
- Australian International Movers Association (AIMA);
- Australian Meat Industry Council (AMIC); and
- Australian Steel Association (ASA).

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