

17 November 2020

The Hon Andrew Constance MP
Minister for Transport and Roads
GPO Box 5341
SYDNEY NSW 2001

Via Email

Stevedore-imposed Terminal Access Charges

Dear Minister,

Following your meeting with a contingent of Freight & Trade Alliance (FTA) and the Australian Peak Shippers Association (APSA) representatives on 12 August 2019 and our subsequent meeting with the NSW Productivity Commissioner on 5 November 2019, we have been extremely frustrated by the lack of engagement by the NSW government on the matter of Infrastructure Surcharges / Terminal Access Fees (**surcharges**).

FTA / APSA wrote to you again on 1 September 2020 in response to your letter from 15 June 2020 (reference: BN20/00262) that recognised the impact caused by Port Botany stevedores applying surcharges, particularly during the unprecedented COVID-19 pandemic and economic downturn.

To date, we are yet to receive a response to our correspondence from 1 September 2020.

Given the release of the "[Container stevedoring monitoring report 2019-20](#)" by the Australian Competition and Consumer Commission (ACCC) on 4 November, 2020 we thought it timely to again raise our concerns and seek an opportunity to discuss same with your office. The report clearly supports our advocacy addressing surcharge as well as commenting on the more recent and shipping line imposed Port Botany Container Congestion Surcharges.

The position of FTA / APSA has not changed. We believe

- These surcharges are not regulated (justified / transparent) and are being increased by stevedores to manage their bottom-line profit as a result of under-pricing their services in contract negotiations with shipping lines to win business, and
- These surcharges are being levied on third parties (transport companies) who have no platform to negotiate and further **must** sign carrier access agreements to be able to access the terminals and agree to be subject to all charges levied at the stevedores discretion. Not signing prevents them from being able to conduct their normal business activities.

We have referenced the salient points from the report below:

Stevedore revenues increase despite a significant reduction in container volume

ACCC key finding - Stevedores' total revenues at monitored ports increased by \$38.9 million, or 2.8 per cent, despite a significant drop in container volumes. It appears the main driver of increased revenues, despite a moderate reduction in costs and reduced volumes, was further increases in Terminal Access Charges (TACs, formerly called 'infrastructure charges'). TACs on aggregate have increased by \$87.6 million, or 51.9 per cent, since 2018–19.

FTA / APSA commentary

The ACCC analysis is clear.

Stevedores are operating in a highly competitive environment with limited shipping lines serving the Australian market and larger vessels deployed under consortia arrangements. As a result, stevedores are clearly reducing quayside charges imposed on shipping lines to retain and win new business and are making up the lost revenue and achieving significant profits through an increase on landside charges (including Infrastructure Surcharges now more appropriately referred to as Terminal Access Charges).

This cost reduction for shipping lines has not translated to a commensurate reduction in Terminal Handling Charges passed on and paid by exporters and importers.

The FTA / APSA submission on 30 June 2020 in response to the ACCC [Discussion Paper – Proposed Class exemption for Ocean Liner Shipping](#) recommended a registration process to mandate incorporation of stevedore supplier fees to be administered direct and solely against shipping lines (negating the practice of stevedore-imposed “Infrastructure Surcharge” administered against the transport sector).

As highlighted in the recent FTA / APSA supply of evidence before the [Inquiry into the implications of the COVID-19 pandemic for Australia's foreign affairs, defence and trade](#), we will continue our advocacy emphasising that it will be the efficient movement of goods that will lead our economic recovery and generate national wealth, not the welfare and self-interests of infrastructure owners.

Appropriateness of the point of charging

ACCC key finding - Because importers and exporters contract with shipping lines to send cargo and the shipping lines then choose the stevedore, TACs are to some extent a 'take it or leave it' proposition. Since landside port users cannot directly choose their stevedore there is little effective constraint on these rising charges.

FTA / APSA commentary

All businesses face a dilemma of how to deal with unavoidable costs such as rent, infrastructure, labour and power. Those same businesses are then forced to either

absorb costs or pass them on to their commercial clients. Similarly, stevedores should be forced to either absorb operating costs or pass these on to their commercial client (shipping lines). Shipping lines then have the choice to absorb costs or pass these onto shippers (exporters, importers and freight forwarders) through negotiated freight rates and associated charges.

Responsibility lies with states to regulate

ACCC key finding - The ACCC is concerned that the benefits of greater competition between stevedores to provide services to shipping lines will be eroded by increasing TACs, although any regulation of these charges is a matter for state and territory governments.

FTA / APSA commentary

This position aligns to the response, copy attached, from the Deputy Prime Minister to our formal submission titled [Status report - Container Stevedore Imposition of Terminal Access Charges](#) (27 May 2020).

Importantly the Deputy PM notes the following:

- support for our advocacy, noting the operational and cost implications for exporters and importers caused by Infrastructure Surcharges;
- acknowledgement of our positive engagement on broader freight and trade policy matters during COVID-19;
- clear articulation that stevedore pricing reform is a state government responsibility (negating arguments from the states pointing back to the Federal Govt to lead); and
- reference to the ACCC to ensure that stevedores involved vertical integration operations do so on a 'level playing field' with others in the supply chain and do not use Terminal Access Charges for commercial advantage / offset pricing.

Our stance has always, and continues to be, for these charges to be passed onto the stevedore's commercial clients the shipping lines. In light of this recent report and its commentary that the management of these charges fall to the respective state governments we seek to again raise these matters with you and would appreciate an opportunity to discuss how they can be managed in New South Wales to ensure exporters / importers can control the costs to market of their products.

Your sincerely



Paul Zalai
Director, Freight & Trade Alliance (FTA)
Secretariat, Australian Peak Shippers Association (APSA)