

1. Productivity Commission statement – Captain Noronha

2. Good afternoon, my name is Captain Melwyn Noronha, and I am the CEO of Shipping Australia. I am accompanied today by Mr Jim Wilson, who is Shipping Australia's Policy Manager. Shipping Australia is a local industry association that represents the participants in the marine-side of Australia's supply chain.
3. Our comments today elaborate on certain aspects of our previously-filed submission, the draft report by the Productivity Commission, and our response to the same.

4. Firstly, I'd like to talk about ports generally

5. Given that container ports are vital to the wellbeing of Australia, there should be consideration by the Productivity Commission for a nationally-based oversight and governance regime for the container port sector.
6. Our ports do not work well. The World Bank has issued two reports to this effect. The Productivity Commission has also made similar findings about low port productivity in its Draft Report.
7. As a former accident investigator, I often carried out a root-cause-analysis which involves asking "why" to get to the root cause. This analysis shows that many of the complaints of which shippers complain – and which they erroneously attribute to ocean shipping – have a root cause in poor port practices and performance.

8. Consider, for example, this root-cause analysis that could apply when there is a build-up of empty containers in Australia:-
9. **Question:** why is there a snarl-up in the empty container supply chain?
- 10.**Answer:** because empty boxes cannot be sent to empty container parks.
- 11.**Q:** why is it that containers cannot be sent to empty container parks?
- 12.**A:** because the empty container parks are full.
- 13.**Q:** why is it that the empty container parks are full?
- 14.**A:** because containers cannot be moved to the port.
- 15.**Q:** why is it that containers cannot be moved to port?
- 16.**A:** because there is an insufficient amount of shipping capacity at port.
- 17.**Q:** why is there an insufficient amount of shipping capacity at port?
- 18.**A:** because the box ports are working too slowly relative to the volumes of ship calls and containers; the container ports have also set a berth utilisation rate that is too low.

19. **The root cause in this scenario is poor port performance and low berth utilisation.**
20. This exercise can be repeated with numerous complaints in the supply chain – surcharges, delays, costs, unreliable services etc. The root cause of these complaints is often found to be “poor port performance” or “poor port practices” or both.
21. Container ports are the central node in the logistics supply chain. If our box ports work well, then it is likely that everything works well; if our ports do not work well, then it is a near-certainty that little will work well.
22. To demonstrate **the cascading effect of how ports can make everything worse**, consider the comment on page 106 of the Draft Report, under sub-heading “Time-Based Metrics”, where it is written that *“Ports may appear inefficient if many ships miss their windows and are forced to spend time at anchor”*.
23. This is a confusion of cause and effect: **box port inefficiency and delays make ships late; ships don’t worsen the performance of box ports.**
24. An accurate re-write of that statement would read *“ships may appear inefficient if port delays cause ships to repeatedly miss their window and force them to spend time at anchor”*.

25. These comments tie into Information Request 6.1 of the Draft Report, Terminal operators should not charge ships for arrival outside of their windows because it is often port delays that cause ships to be late.
26. Shipping companies that are thrown off-time by ports then have to engage in schedule-and cost-management tactics such as skipping port calls, blanking sailings (which cuts capacity), issuing surcharges, and speeding-up ships (which is an expensive way to burn vastly more fuel).
27. Subsequently, after ports have made ships late, a variety of landside problems then manifest. Ship arrivals at port can bunch-up. So instead of one ship arriving at a port, there may be two or three, or more. Ship bunching means that a lot of containers need to be handled in a short time. Trucks handle these containers. Suddenly, there is a local spike in demand for trucking services and trucks can fall into short-supply relative to that spike in demand. Higher truck hire fees, cargo handling delays, wasted costs, and shipper / consignee frustration will result.
28. Alternatively, if ships are scheduled to arrive but don't turn up because they have been delayed by a port, then wasted costs can be incurred across the supply chain and even quite far inland. For example, the operators of a remote logistics centre could have engaged work gangs to unstuff, handle, store and distribute goods in containers that haven't

shown up on time. Those logistics workers still have to be paid even if the cargo does not arrive on time.

29. **I'd also like to discuss port monitoring, port fees and port-charges by a variety of port-related actors.** Melbourne aside, there is no effective monitoring of our ports, which happen to be regional monopolies. Ports directly and indirectly support 1-in-5 Australian jobs, they handle 99.96% by volume of all of our physical trade and they basically help underpin our entire economy. **Ports are too important to Australia's economic life and wellbeing not to have effective regulation.**

30. We dispute that there is no case for regulation of port charges. There is a clear pattern of a variety of parties in the ports sector imposing a range of unjustifiable charges on shipping. **These charges need to be controlled but, currently, there is next to no effective oversight.** We have detailed a few examples below.

31. Each year port prices go up regardless of the economic environment and against the wishes of their customers.

32. One port in NSW has imposed a penalty based on the flow of empty containers and this was against the wishes of its customers. This penalty will likely be a detriment to shippers in NSW who may find empty containers will fall into short supply because of the port's scheme.

33. Meanwhile, tankers are charged a certain fee to cross the port boundary in NSW. If a tanker has paid that fee, has entered the port, and is then ordered out of port against its wishes by the port authorities, then that tanker must pay another fee to re-enter the port. It is double-charging and it is quite wrong. And there is no way to challenge the double-charge.

34. In Western Australia, the state government has imposed a charge on the movement of capesize bulkers to pay for a re-location project of its citizens that are affected by the presence of dust. However, the dust originates from iron ore stockpiles owned by the WA government (and for which the WA government receives billions of dollars in royalties upon sale) and which are stored and handled by a WA government-owned entity. The WA government is the polluter, yet it is ocean shipping that has to bear the cost. Whatever happened to the principle of the polluter must pay?

35. I turn now to the exemption to competition law for liner shipping, namely the proposed repeal of Part X.

36. Review after review by the European and Hong Kong competition authorities has shown that an exemption to competition law for liner shipping is beneficial to society. Based on this evidence, the Productivity Commission should recommend that there be no repeal of Part X until, and only until, a block exemption is in place. Similarly, the

recommendation that there should be a case-by-case review prior to a vessel sharing arrangement being approved is unnecessary as the economic benefits have already repeatedly been demonstrated.

37. We are also very concerned about the findings and recommendations in respect of **Terminal Access Charges**.

38. Recommendation 6.2 in the Draft Report, which recommends forcing shipping companies to pay Terminal Access Charges, is a terrible recommendation.

39. It amounts to a further subsidy of a sector, namely trucking, that is already extremely subsidised. Some of those trucking industry operators are already generating huge revenues and profits. Meanwhile, about AUD\$4 billion a year is directed to the trucking industry, which does not pay its fair share of the costs of road creation and maintenance. Trucking can pay its own way, but it lobbies to make everyone else pay for the trucking industry instead.

40. Worse, trucks are very dirty. Per tonne-kilometre, they belch out huge volumes of greenhouse gases. They are the second-highest polluters of greenhouse gases per tonne-kilometre, only aeroplanes are worse. In Australia, trucks produce more carbon emissions than rail, aviation and

shipping combined¹. Among other things, trucks belch carbon monoxides, nitrous oxide, sulphur dioxide and Particulate Matter. These are damaging to human, plant and animal health. They cause lung cancers, aggravate heart disease and cause a range of illnesses. They can severely damage eco-system health and agricultural productivity through, for example, the formation of acid rain.

41.Trucks can also be hazardous to human health. About seven Australians a fortnight are killed because of heavy truck accidents; just under ten Australians a week are hospitalised because of heavy trucks.

42.Draft Recommendation 6.2 would subsidise an already highly subsidised industry.

43.It is a recommendation that, if carried out, would make rich Australians richer at the expense of all other Australians. It would also help to grow an industry that is one of the worst environmental offenders in the transport sector, and which, each year, makes hundreds of Australians sick, grievously injured, or dead.

44.On these grounds alone, Recommendation 6.2 is a truly awful policy and it deserves to be condemned.

45.And we do condemn it.

¹ "Opportunities to reduce light vehicle emissions in Australia", Climate Change Authority; accessed 01 November 2022. See <https://www.climatechangeauthority.gov.au/reviews/light-vehicle-emissions-standards-australia/opportunities-reduce-light-vehicle-emissions>

46.Recommendation 6.2 defies common sense. It is morally wrong. It should be dropped.

47.Turning now to the economic aspect of Terminal Access Charges, we note that there is an **IMPORTANT MISSING REGULATORY OPTION** from the regulatory choices presented on page 199 in the Draft Report.

48.If anyone should be forced to absorb Terminal Access Charges in Australia, then it should be the people who ultimately benefit from the movement of freight. **And those people are shippers and consignees.** If this is difficult for any reason, the next ideal candidates to be targeted for the imposition of Terminal Access Charges are the direct agents of shippers and consignees, which are usually freight forwarding companies.

49.If ocean shipping companies are forced to pay and pass-on Terminal Access Charges then they will likely charge a mark-up to cover costs and administration. These increased costs will likely be paid by the next parties in the supply chain which would then pass on the charge, again with a mark-up. It can be seen that Recommendation 6.2 will likely lead to an unnecessary escalation in costs.

50.If trucking companies must, for some bizarre reason, be absolved of the burdens that they should rightfully bear, then the least distortionary

option is to force shippers and consignees – or their freight forwarding agents – to pay the charges.

51. Meanwhile, although there may have been some changes in choice of stevedore by the smaller-volume shipping companies, **it is wrong to assume that all shipping lines have market power over terminals in Australia.**

52. The bigger lines, for example, can only use one stevedore as the others simply cannot cope with the volumes.

53. There are many inefficiencies for shipping lines in using different terminals at different ports, so shipping lines generally need to use one terminal operator (where possible) for their port calls in one country.

54. So, the fact that there are three terminal operators in three of the five capital city ports is not a sign that competition has been significantly boosted, especially as there is a monopoly supplier in one of those ports, namely, Adelaide.

55. We must also consider the international angle. Global carrier-terminal negotiations are just that: global. The Australian market is too small to influence global negotiations between world-spanning companies. Global companies simply cannot alter their global operations to suit the Australian market. When large international companies come to a deal, they sign contracts for years at a time; ships cannot simply pick and

choose which terminal to go to. These are likely the reasons why the newer terminal operators have not won large volumes of business.

56. In any event, **even if shipping lines do have market power over terminals - which they don't - they will not exercise market power for the benefit of third parties.** If shipping lines are somehow forced to pay for Australian Terminal Access Charges, they will eventually pass on these charges to Australian shippers and consignees. The passing-on of fees will likely become a private matter between the parties involved. The supply chain as a whole will then lose visibility of Terminal Access Charges and it will also lose the opportunity for regulatory oversight. For all these reasons, Recommendation 6.2 should be dropped.

57. We turn now to Container Detention Fees.

58. These fees are a vital component of international trade and work to ensure that parties in the supply chain return boxes at an appropriate time. The system as a whole works well and benefits shippers as a sector by ensuring that there is a supply of containers for them to use and by discouraging inappropriate use by some parties (e.g. some parties use containers as a form of storage or even simply just do not return containers and put them to other uses).

59. Meanwhile, the truckers could make more efficient use of empty container parks. One reason that there are re-directions of containers and

subsequent container detention fees is because Empty Container Parks can run short of capacity. **However, many, but not all, trucking companies refuse to work in early morning, evenings and weekends.**

60. Empty Container Parks formerly offered these extended hours but trucking companies refused to use them. Most trucking companies prefer to work standard hours. Working extended hours would cut down on gate congestion and full park congestion as container-runs to port could be made more frequently, thereby improving empty container park capacity, cutting redirections and avoiding container detention fees.

61. Meanwhile, the parties who are most inconvenienced by container detention fees have a wide range of other options to avoid having to pay them. These include, but are not limited to, truckers not competing for business on the basis of being able to re-deliver containers so as to avoid container detention fees, insurance, shipper and trucker terms and conditions of business, shippers using their own containers, and many more. Interfering with the ability of shipping lines to charge container detention fees, or ongoing hire fees, could produce a variety of adverse consequences, such as truckers abandoning containers during times of high congestion.

62. Additionally, we are concerned that the application of **Australian unfair contract rules** into well-established international shipping law could have a variety of adverse affects, as detailed in our draft response.

63. **In summary** after numerous hours of research, the writing of 116 pages of submission, 36 pages of response to the Draft Report, and 13 pages of testimony today, we've come to the following conclusions:

- a. Ocean carriers are working well and are delivering the goods...
but they are getting the blame!
- b. Ports are poorly regulated, under-performing, and over-charging...
but they are escaping the blame!
- c. Political actors are meddling with the system while being mis-led
... and they are clueless about the game!
- d. Meanwhile... truck operators do what they want, refuse to pay for anything...
while trying to rig the game AND dish out the blame!

64. Our comments on these matters conclude here. Shipping Australia would like to thank you for the opportunity to speak today.

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