



30 September 2009

Mr E.J. Hall
Chief Executive Officer
Queensland Competition Authority
Level 19, 12 Creek Street
BRISBANE, QLD 4000

By email: ports.submissions@qca.org.au

Dear Mr Hall,

Federal Chamber of Automotive Industries' Declaration Application

Asciano welcomes the opportunity to comment on the Federal Chamber of Automotive Industries' (FCAI) application to the Queensland Competition Authority (QCA) to have a number of vehicle importation services provided at the Fisherman Islands Cargo Terminal (FICT) declared.

Asciano provides stevedoring services through Patrick General Stevedoring (PGS) and Processing, Delivery & Inspection (PDI) and Vehicle Transport services through Patrick Autocare (PAC) at the FICT and its surrounds. Asciano also owns 50% of Australian Amalgamated Terminals (AAT).

Asciano is aware that AAT is providing a detailed submission to the QCA addressing many of FCAI's claims. However, given a number of the services FCAI is seeking declared are not provided by AAT but by PGS and PAC, Asciano feels it is important to clarify the competitive environment surrounding the provision of these services. In addition, there are a number of aspects of the FCAI's submission that require further clarification.

Clarification of FCAI's Application

Although not specifically stated, Asciano assumes that the area that it leases from AAT to provide PDI and Vehicle Transport services is excluded from the FCAI's definition of the FICT. To assume otherwise would mean that one PDI operator (PAC as the on wharf PDI provider) would be declared while competing PDI operator PrixCar Services Pty Ltd (PrixCar) would not. This outcome could significantly distort the competitive market for the provision of PDI services.

In addition, there is some uncertainty around the services that FCAI seeks declared. For example it is extremely unclear what service "k" (as outlined on page 6 of the FCAI application) is, which FCAI describe as "for any other purpose associated with motor vehicles". Also whilst stating that the initial unloading of vehicles from the ship carried out by the stevedores is excluded (section 2.3(a)), the FCAI has sought to include the service of "discharging motor vehicles from ships" (section 2.2(c)).

Criteria for Declaration and Patrick provided services.

The table below outlines the services that FCAI is seeking declared that are provided by PGS or PAC. The table includes Patrick’s competitors who also provide these services.

Table 1: Proposed declared services provided by Patrick & its competitors

Service	Providers
c. Discharging motor vehicles from ships	PGS and P&O Automotive & General Stevedoring (POAGS)
e. Moving motor vehicles within the FI facility	PAC, PrixCar and AAT
f. Loading motor vehicles onto car carriers	PAC, Toll, CEVA and other independent small volume entities
g. Transporting motor vehicles to on wharf PDI facilities	PAC and PrixCar
h. Cleaning motor vehicles	PAC, PrixCar and AAT
i. Inspecting motor vehicles	PAC, PrixCar, AQIS, Shipping Lines, Marine Surveyors
j. Complying with customs and other government requirements	PAC, PrixCar, AAT, Customs agents and shipping lines

Before the QCA can recommend that a service be declared it must be satisfied that:¹

- Access (or increased access) to the service would promote competition in at least one market (whether or not in Australia), other than the market for the services;
- It would be uneconomical to duplicate the facility for the service;
- That access (or increased access) to the services can be provided safely; and
- Access to the services would not be contrary to the public interest.

As the table above shows Patrick operates in a competitive market with alternative providers available for each of the services.

There are a number of well established players offering vehicle importation services and contracts are relatively short (12 months up to maximum of around 5 years). Tenders are very competitive and switching providers is a relatively easy process. Indeed, the ACCC has concluded that the markets for the provision of PDI services, shipping and transport services relating to vehicle importation and exporting are competitive.²

Given that these services are provided in a competitive market it is not possible, in Asciano’s opinion, to make the case that declaration will promote competition in another market. How could declaration improve access and therefore impact competition in another market, when access is already provided through a competitive market? Thus these services fail to meet the first criteria.

The failure to meet the first criteria means that declaration would result in unnecessary regulation (ie regulating competitively provided services). The regulation would deliver no benefit, but create unnecessary administration and compliance costs. In addition, as with

¹ Set out in s.76(2) of the QCA Act.

² ACCC Authorisation no. 91023, 6 June 2007, 6.115.

all regulation, there is the potential for market distortion (eg. the undermining of efficient incentives to invest). Thus the declaration of these services would clearly fail the public benefit test.

Failure to meet these two criteria means that the QCA could not recommend these services for declaration.

Asciano recognises that this letter deals with the issues at a high level and we would be happy to provide the QCA with more detail if this would be helpful in its decision making process.

Yours sincerely

A handwritten signature in blue ink that reads "Tim Kuypers". The signature is fluid and includes a long, sweeping underline.

Dr Tim Kuypers
Group General Manager
Access & Regulation