

PRODUCTIVITY COMMISSION INQUIRY: ECONOMIC REGULATION OF HARBOUR TOWAGE AND RELATED SERVICES

GOVERNMENT RESPONSE

In February 2002 the Government asked the Productivity Commission to report within six months on whether harbour towage at major ports should continue to be a 'declared' service under the Prices Surveillance Act. In so doing the Commission was to report on the impact of structural reforms on the provision of harbour towage and other measures that could be taken to increase the level of competition in harbour towage and related services.

In drawing up its recommendations the Commission was asked to review the market structure including the effectiveness of competition, the extent to which cost structures vary from one port to another, pricing of towage services and the effect of regulations on the efficient provision of towage services.

The Government in requesting that the Commission undertake this inquiry was responding to a number of factors that indicated a review of the Harbour towage sector would be timely. These factors included; announcement by Adsteam Marine that it intended to increase the price for its towage services in five of Australia's major ports by between 11.7 and 26.2 per cent; the ACCC finding that no increases were warranted; requests from the users of towage services and key stakeholders including port authorities and shippers for an inquiry and the expiry on 19 September 2002 of the 'declaration' of towage services under the Prices Surveillance Act.

The Government received the Productivity Commission's Final Report on 20 August. After detailed consideration of the report the Government has accepted the Commission's findings and the four recommendations based on those findings.

The Government has also noted the Commission's view that the provision of salvage services need not be adversely affected by the efficient pricing and provision of towage services. Given the importance of adequate salvage services the Government considers that the retention of adequate salvage capability needs to be factored into tender specifications and contracts where port authorities seek to licence towage operators. In addition the Minister for Transport and Regional Services will maintain a dialogue with the shipping industry and related stakeholders to monitor future developments in the Australian tug fleet and its salvage capability.

The Government's position in relation to the four recommendations is as follows.

Recommendation 1.

Subject to maintaining appropriate levels of safety, prescriptive regulations that stipulate tug use and/or tug size or type should be modified to promote provision of required levels of service at minimum cost.

Relevant jurisdictions should also promote harmonisation or, where appropriate, introduction of a system of mutual recognition of minimum crew qualifications and standards, to minimise impediments to the movement of crews and tugs across Australian ports in different jurisdictions.

The Government strongly supports this recommendation and believes there is scope for towage services to be provided on a more cost effective basis through further review and reform in these areas. The Minister for Transport and Regional Services will work through the Australian Transport Council to have the issues identified in the Productivity Commission Report relating to towage guidelines and the training and qualifications of tug crews addressed.

In this context the Government notes that in relation to tug crew training and qualifications the ATC has already initiated work through the National Marine Safety Committee (NMSC) to achieve the national adoption of all aspects of Australia's Unified Shipping Laws Code. However, the Report has also identified other issues in relation to the Code and international conventions to which Australia is a signatory and the Government would like to see these matters also examined by the NMSC.

The Minister for Transport and Regional Services will seek the agreement of the ATC to have this work undertaken by the NMSC.

Recommendation 2.

Where port authorities currently do not have explicit discretion to license towage operators (on an exclusive or non-exclusive basis), the relevant jurisdiction should grant them that discretion.

The granting of such discretion should be accompanied by safeguards to ensure that a port authority, if and when exercising its discretion to license towage providers:

- **does not use the tender process to appropriate savings in the provision of harbour towage for itself (over and above the additional administrative costs incurred by the port authority);**
- **demonstrates the net benefits of proposed licensing arrangements;**
- **formally consults with towage users in a transparent manner prior to changing existing arrangements and about the conditions attached to any licences; and**
- **implements 'arms length', transparent competitive-tendering processes.**

The Government accepts in principle the Productivity Commission finding that competitive tendering offers an alternative and potentially more effective mechanism for promoting competition and may lead to more efficient pricing and service outcomes. The

Government recognises that achieving more efficient pricing and service outcomes is partly reliant on further workplace reform in the industry.

However, while it supports this recommendation the Government considers the implementation of appropriate safeguards consistent with those specified by the Commission are essential to ensure the integrity of any tender process. The Government would not support the introduction of competitive tendering by any jurisdiction or port authority that was in any way deficient in these areas. Any tender process must be transparent and independent of any potential conflict of interest. In particular the Government strongly believes any tender process for the provision of towage services where the relevant port authority is associated with a tenderer must be managed by an independent agency.

The Government recognises that any move to implement this recommendation rests solely with the State and Territory Governments and their agencies. It has noted that subsequent to the release of the Productivity Commission's discussion paper in June Queensland has announced it will grant all port authorities in the State the right to license harbour towage. The Minister for Transport and Regional Services will raise the Productivity Commission's recommendation with his ATC counterparts in those remaining jurisdictions that do not allow the licensing of towage operators.

Recommendation 3.

Declaration of harbour towage services at the ports of Melbourne, Sydney (Port Botany and Port Jackson), Newcastle, Brisbane, Fremantle and Adelaide under s. 21 of the Prices Surveillance Act 1983 should not be renewed when the current declarations expire on 19 September 2002.

Following consultation between the relevant Ministers it was agreed that the declaration should be allowed to lapse on 19 September and this has occurred.

Recommendation 4.

Harbour towage charges where declarations currently apply should, as a transitional measure, be subject to limited monitoring by the ACCC for a three-year period. Price data should be published annually.

The Government supports the Commission's view that limited price monitoring for a period of three years would be of assistance to users as well as other industry stakeholders including ports and shippers. However, the Government believes there may be merit in such monitoring including both regional and bulk commodity multi-user ports. The Minister for Transport and Regional Services will consult with industry stakeholders before announcing which ports will be incorporated in the monitoring process.

The Government also accepts the Commission's view that any further monitoring should be very "light handed". Given this approach it is considered more appropriate for the work to be undertaken by the Bureau of Transport and Regional Economics on an annual basis with the results being incorporated in its publication *Waterline*. The monitoring will be limited to a survey of prices being charged within the nominated ports. It is intended that a base line survey will be undertaken and published in the first edition of *Waterline* in 2003.