

REGULATION AND PRIVATISATION IN THE AUSTRALIAN  
WATERFRONT INDUSTRY

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**ABSTRACT:**

*The Australian waterfront industry has not been subject to direct regulation other than the general provisions of trade practice legislation. Since 1977 the supply of labour has also been deregulated. In addition, port authorities largely abandoned their traditional role of providing common-user facilities when container cargo services were introduced.*

*Over recent years there has been increasing shipper and government concern about the level of shore-based shipping services and costs. The developments in the organisation and arrangements in the industry since containerisation commenced are examined to draw conclusions about its performance and the appropriate degree of regulation given the industry structure and its economic characteristics.*

*This examination suggests that privatisation and total deregulation may not always lead to desirable outcomes and that governments should at least consider the need for some forms of involvement or controls.*

## REGULATION AND PRIVATISATION IN THE AUSTRALIAN WATERFRONT INDUSTRY

### INTRODUCTION

This paper sets out to examine the outcome of deregulation and privatisation in the Australian waterfront industry, an industry with monopolistic tendencies. The aim is to draw conclusions about the appropriate degree of regulation and privatisation given its structure and economic characteristics.

The waterfront industry referred to in this paper comprises those participants engaged in terminal, conventional stevedoring and depot services for the handling of non-bulk cargo. Shipowners and shipping lines are referred to as carriers.

The development of the industry structure and the participants' response to regulatory change are described in order to provide an understanding of the current arrangements. The characteristics of competitive markets and contestable market theory criteria are used as a basis for assessing the performance of the industry and whether some forms of government involvement and intervention might have been warranted.

### DEVELOPMENT OF THE WATERFRONT INDUSTRY

#### Market environment

Non-bulk shipping services to and from Australia have been traditionally provided by shipping lines that rationalise their capacity, co-ordinate their services and agree on rates in closed conferences. Given Australia's 'long and thin' trades this co-operation is the natural response in a capital intensive industry where minimum acceptable service levels and the economies of ship size give carriers with large market shares a competitive advantage. With the advent of containerisation in 1969, the conference carriers increased their market power by horizontally integrating into consortia. The dominance of the conference carriers was not challenged until the second half of the 1970s when several independent carriers entered the main trades.

This environment of co-operation between shipowners extended to dealings with the waterfront industry. Associations of coastal ship owners were formed by the turn of the century to co-ordinate their members' approach to industrial relations (Committee of Inquiry into the Stevedoring Industry 1957). The Association of Steamship Owners' Federation (ASOF) established in 1899, for instance, co-ordinated its members' investment in

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waterfront facilities and stevedoring companies were often jointly owned by the members. ASOF's approach to matters relating to employment of waterfront labour was co-ordinated with those of the overseas shipowners and the independent non-ASOF coastal shipping operators. The Australian Employers of Waterside Labour (AEWL) that represents employers' interests today evolved out of these associations.

The dominance of rural products in Australia's export trades has had a major influence on the shipping market and, indirectly the waterfront industry. Commodity boards up until the last decade have largely supported the conference carriers in order to secure cargo centralisation arrangements at pan-Australian rates. Consequently, the conference carriers have been able to exert monopsony power in the market for waterfront services and to a large extent block freight forwarders from entering the terminal and depot sectors. This 'control' over cargo has reinforced the ability of the carriers to successfully integrate into stevedoring operations and establish dominant positions. The most notable exception to this trend is the trans-Tasman trade where manufactures are the most significant group of commodities and the carrier that introduced container operations preferred as a monopoly operator to handle the cargo for freight forwarders at FAK rates.

The characteristics of the largely rural based trade also affected the union approach. With the trade subject to seasonality, climatic conditions and world commodity prices, large fluctuations occurred. This in turn gave rise to labour shortages and surpluses and hence concerns about work continuity and the maintenance of wages and conditions.

This background of dominant co-operating carriers with control over the majority of the cargo and the inherent variability in the service requirement undoubtedly influenced the response of waterfront labour, fostering policies aimed at establishing countervailing market power.

### The labour market

The Waterside Workers' Federation (WWF), the main union in the industry, had obtained agreements with employers to give preference to its members as early as 1914. Mr Justice Higgins, when making the first federal award for the industry deferred to these agreements, but insisted

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that the Union could not exclude competent men from its membership (Committee of Inquiry into the Stevedoring Industry 1957).

The WWF's control over the supply of labour in the industry fluctuated over the years until the Second World War. The treatment of the union during the Great Depression when it lost control was particularly significant because it influenced its future demands for monopoly control of labour. The licencing arrangements under the Transport Workers' Act (1928) (the 'Dog Collar Act') gave control to the Interstate and Overseas Shipowners' Organisation which allowed an oversupply of workers to develop that at the time of the depression made it impossible for those concerned to make a reasonable living wage (Lawson 1957).

Since World War II a number of statutory bodies have been created to oversee the affairs of the stevedoring industry. These bodies have been mainly concerned with regulating the number of employees in the industry. The WWF's position as the dominant union was not disputed: Only WWF members could be employed. Recruitment was undertaken by the union after agreement had been reached between employers, the statutory body and the union. There were several attempts by employers to gain the right to recruit new workers and casual workers to meet short-term requirements. In each instance however, the WWF was supported by the union movement and was able to prevail.

Another feature of the industry development were demarcation disputes. With the demise of coastal shipping in the 1950s and 1960s and the introduction of new bulk handling technology, the WWF campaigned to extend the definition of stevedoring. With control over recruitment being won, the main issue became protecting employment of existing waterside workers. The WWF's approach to technological change has been summarised by Lowenstein and Hill (1982) as follows:

...to see that all new machines on the waterfront were handled by waterside workers, that men would not be forced out of the industry, and that work traditionally done by waterside workers would continue to be theirs. They also fought for higher wages, more appearance money and longer annual holidays to help spread the work.

Concern over the number of disputes prompted the Government to convene a National Stevedoring Industry

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conference (the Woodward Conference) in 1965. In addition to developing mechanisms for dealing with redundancies, the main outcome of the industry was the establishment of 'permanency'.

The permanent employment scheme was aimed at developing stronger employee-employer relationships by facilitating the direct employment of the majority of the permanent workers by operational stevedores (individual stevedoring companies) (Deery 1978). The remainder were employed by a representative employer holding company, Stevedoring Employers of Australia Ltd (SEAL), for allocation on a day-to-day basis by the operational employers as required.

The scheme however proved to be a failure because the traditional allegiance of the workers to their union prevented the development of company loyalties. One of the reasons for this failure was the egalitarian outlook of the union. When the employers attempted to foster loyalty by offering generous penalty rates to their permanent employees the WWF demanded an equalisation scheme that ensured all workers received equal earnings, equal idle time and equal amounts of weekend work (Deery 1978).

In recent years the main labour concerns have been the surpluses brought about by the increasing development of containerisation and the rigidity of the permanent employment scheme arrangements. The flow-on effects of concessions on wages and conditions together with the 35-hour week which was introduced in the waterfront industry before any other sector of the economy, made labour intensive operations costly and hastened the introduction of container shipping operations.

### Development in the size and concentration of waterfront firms

The waterfront industry has become increasingly concentrated since the advent of containerisation. This concentration has been an Australian-wide phenomenon. For example, in the traditional stevedoring sector two companies, ConAust and Patricks, dominate in all of the major ports. The terminal sector has more participants but is concentrated on a port-by-port basis.

This concentration was brought about by several factors. First, the demise of coastal shipping that resulted from the development of competing air and land modes, (particularly road transport), reduced the size of the market. Second, technological developments in cargo

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handling such as palletisation and forklifts reduced the labour requirements in stevedoring and made the operations less labour intensive. Third, the introduction of containerisation further reduced the time spent stevedoring and hence the number of workers required. Containerisation was particularly capital intensive with requirements for large cranes, forklifts and land.

Another factor which probably had an influence on the concentration that took place was the introduction of the permanent system of employing labour. The cost of a large permanent workforce, especially in view of the fluctuations in stevedoring service demand, was high and affordable only by large firms with a stable market. Smaller firms were at a competitive disadvantage because the labour pool, particularly in the smaller ports, was an unreliable source of labour and they did not have the resources to 'carry' large numbers of operational labour through downward fluctuations in demand.

The most recent round of mergers occurred in 1977 and 1978 and has been attributed to changes to the Trade Practices Act. The Trade Practices Amendment Act 1977 changed the criterion for determining which mergers were prohibited from the likelihood of a substantial lessening of competition to the (simpler) likelihood of dominating the market. This change, which in effect prevented the Trade Practices Commission concerning itself about the efficiency consequences of oligopolistic pricing practices, allowed mergers to proceed in the industry where they had been denied under the previous legislation. The removal of labour pools in the major ports and the allocation of all the labour to operational stevedores in these ports may have also been a strong motive for the mergers that took place at this time. However, it is unlikely that the mergers would have been permitted if the Trade Practices legislation had not been relaxed.

Excess capacity may have also been a factor that influenced the concentration in the terminal sector. With the dominant carriers traditionally using a single stevedoring company (in some cases their own), constraints on the availability of land and labour and the high cost of the facilities made it unattractive to enter the market while there was excess capacity.

In recent years the conventional stevedores have competed with the terminal sector, particularly to serve the independent non-conference carriers. However, the

dominant conventional stevedores are also involved in the terminal sector.

## REGULATION AND MARKET RESPONSES

### Government regulation and involvement

Apart from the World War II period, federal government involvement and intervention in the waterfront industry has been limited. Intervention was confined to establishing statutory authorities that set labour quotas, co-ordinated the deployment of labour amongst stevedores, encouraged industry efficiency and facilitated the settlement of disputes.

Initially federal governments were directly involved through representation on the statutory authorities. Later it was in the form of arranging conferences and seminars to bring the parties together with a view to removing inefficiencies or solving specific issues which were causing disruption.

There was also a gradual devolution of the responsibilities of these statutory authorities towards industry self management. Table 1 sets out the level of federal government involvement and the responsibilities of the statutory authorities established through legislation since 1947.

In 1976 when the Fraser Government decided to withdraw from virtually all involvement in the industry it announced that:

The Government believes that everything should be done to ensure that this industry now moves towards a situation where the relationships in the industry are as normal as possible and that employers and employees within the industry accept the same restraints and responsibilities required of other industries (Street 1976).

This approach was in accord with the major employers and the WWF's recommendations but contrary to those of the conventional stevedores, the Australian Stevedoring Industry Authority (ASIA) and the Australian Shippers' Council (ASC) (Northrop 1976). The ASC, for instance, supported the creation of a statutory body to employ all waterside workers and to hire out labour to stevedoring companies as required. This call for greater regulation was probably aimed at breaking down barriers to entry

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TABLE 1 STEVEDORING INDUSTRY REGULATION AND FEDERAL GOVERNMENT INVOLVEMENT  
SINCE 1947

Authority	Enabling legislation	Key responsibilities	Government involvement
Stevedoring Industry Commission	Stevedoring Industry Act 1947	The conduct of an employment bureau. Management of labour allocation and equalisation schemes. Registration of waterside workers and foremen. Prevention and settlement of disputes.	Judge of the Arbitration Court. One Government representative
Australian Stevedoring Industry Board	Stevedoring Industry Act 1949	Regulating and controlling performance. Providing sufficient waterside workers. Paying attendance money. Developing stevedoring facilities (advisory only). Training waterside workers.	Conciliation <sup>a</sup> Commissioner Representative of the Treasury to financial matters only
Australian Stevedoring Industry Authority	Stevedoring Industry Act 1956	Fixing labour quotas. Establishment and operation of employment bureaux. Allocation of workers to stevedoring operations. Investigating and encouraging employers to improve their operations. Conciliate in industrial disputes.	Appointment of authority
Australian Stevedoring Industry Authority	Stevedoring Industry Act 1963	Provisions for penalties on workers taking strike action in 1956 Act removed	Nil <sup>a</sup>
Australian Stevedoring Industry Provisions Authority	Stevedoring (Temporary Provisions) Act 1967	Registering and recruiting workers. Fixing labour quotas. Paying long service leave. Providing and maintaining port amenities. Monitoring statistical records.	Nil <sup>a</sup>
Nil	Stevedoring Industry Acts (Termination) Act 1977 <sup>b</sup>		Secretariat <sup>a</sup> support for and representation on Stevedoring Industry Consultative Council (SICC)

Note: There have been a number of Acts since 1967 which impose levies in respect of the employment of waterside workers.

- Responsibility for the settlement of industrial disputes vested in the Conciliation and Arbitration Court.
- Stevedoring Industry Finance Committee Act 1977 made provision for an industry committee appointed by the Minister for Transport to recommend levies and make payments to employers in respect of award obligations.

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resulting from the lack of access to labour and stemming the flow-on effects of concessions made by individual employers.

Federal governments have also had an associated role in funding arrangements. They provided mechanisms and finance for pensions and redundancy payments. The mechanisms were in the form of levies and guarantees for loans repaid from voluntary levies administered by the AEWL.

It might be claimed that the federal government is directly involved in the industry through the Australian National Line (ANL), particularly because it has been engaged in stevedoring operations since 1976. But there is no evidence to suggest that federal governments have used the Line as an instrument to influence the structure and performance of the industry.

The port authorities could have had a major influence over the industry, particularly since the introduction of containerisation, but chose otherwise. Their involvement has been mainly confined to the provision of common-user facilities, such as transit sheds and amenity facilities for waterside workers, in the conventional stevedoring sector and the long-term leasing of land in the terminal sector. Generally the port authorities have not attempted to offset the barriers to entry in the terminal sector created by the availability of land by providing common-user terminals, encouraging sequential competition through short-term auctions for leases, setting performance goals or monitoring and fixing maximum charges; though some, notably the Fremantle Port Authority, have maintained a minor involvement as stevedoring operators.

The industry has therefore been progressively de-regulated since World War II. In addition, the conventional stevedoring, terminal and depot sectors are essentially privatised.

Governments have not intervened to prevent the industry from institutionalising arrangements and practices that were arguably not in the public interest. For example, governments encouraged the permanency arrangements, and sanctioned wage equalisation, idle-time payments and union involvement in recruitment.

In addition, the port authorities could be accused of abrogating their responsibilities to those who ultimately pay for their actions, the shippers. If this is so, this

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could be an argument for greater scrutiny, and intervention.

### Market responses

The response of industry participants to the market environment, technological change and the regulatory environment has been one of preserving, increasing and institutionalising their market power. Participants have naturally endeavoured to consolidate their market positions in order to make it difficult for rivals and potential entrants to compete.

The approach adopted by the participants varied. In the case of labour, the WWF attained its dominance by asserting its position when registration was the main approach to regulating the supply of labour and through demarcation disputes in order to offset the redundancy effects of the demise of coastal shipping and the introduction of new labour saving technology.

Carriers increased their market power through vertically integrating into the waterfront industry and in some circumstances by co-operating with the WWF to establish barriers based on the availability of labour. They had established themselves as the dominant participants in the industry by the late 1940s when between 80 and 90 percent of the total tonnes stevedored between 1948 and 1954 was by firms owned or closely associated with shipping lines. Today there are only two major stevedores independent of shipowners, Patricks and Strangs and most of the dominant industry participants have vertical links to ocean carriers.

One of the most common explanations of carrier involvement in shore-based activities is the importance of ensuring the quick turnaround of ships. However, the integration of stevedoring into the activities of carriers is a natural market response where both the buyer and seller have considerable market power. The introduction of large capital intensive container ships reinforced the importance of control over complementary activities such as stevedoring because ownership removes the shipowner from vulnerability to stevedores exercising monopoly power. Conversely, an independent stevedore runs the risk that the carriers may withdraw their custom, particularly in the Australian shipping market where co-operating conference carriers dominate the major trades and therefore control large volumes of cargo.

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Another reason for carriers vertically integrating into the waterfront industry is the barrier to competition it represents. Casson (1986) explained the strategy thus:

Increasing the number of stages at which a potential rival must enter is likely to increase the entrants capital requirements, and his cost of capital.

Other suggested advantages offered by vertical integration are:

- .. the information on market developments that involvement provides;
- .. increased ability by conference carriers to earn profits through discrimination on a trade-by-trade basis which might not be otherwise possible if freight forwarders had control over large volumes of cargo or independent carriers were involved in the waterfront industry; and,
- .. potential profits and tax advantages and the ability to avoid scrutiny in a particular sector through transfer pricing.

In relation to the second point, even though P and O has a significant conventional stevedoring and terminal sector involvement, the benefits of their involvement outlined above flow to all their associated conference partners because of the conference arrangements. This group operates in other conferences all over the world with their partners in the Australasian trades. Given the highly organised and institutionalised nature of conference operations where the costs of conference and consortia partners are scrutinised by independent accountants, it is understandably why they would extend their co-operation to shore-based activities.

This extension of co-operation into shore-based activities depends on the same conference partners being involved in all of the same trades. For instance, during the 1977 Prices Justification Tribunal (PJT) inquiry into STL's prices the ASC produced documents which purported to demonstrate '... a massive discrimination in the rate charged against the Japanese trade' (Prices Justification Tribunal 1977). Normal co-operation was restored however when the Japanese lines became shareholders with OCL (P&O) and the other European lines in the CTAL terminal at Port Botany.

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### INDUSTRY PERFORMANCE

There is no single basis for measuring the performance of industries that have monopoly tendencies. In the absence of an alternative approach the criteria used to signify both competitive and contestable markets will be examined in order to provide some indication of the extent, if any, of market failures and unsatisfactory performance.

#### Competitive Performance

Scherer (1970) suggests that the following criteria should be used to examine whether a market is competitive. They have been categorised into those indicating competitive outcomes and those indicating oligopolistic market behaviour.

Criteria indicating competitive outcomes are:

- .. efficient production (technical efficiency);
- .. profit levels just sufficient to reward investment efficiency and innovation (normal profits);
- .. the provision of a variety of services that are responsive to consumer demands (service differentiation);
- .. exploitation of opportunities to introducing new products and processes (innovation); and,
- .. high degree of market knowledge by both buyers and sellers.

Criteria indicating oligopolistic market behaviour are:

- .. firms do not act independently;
- .. the presence of price discrimination; and
- .. stable market shares.

The degree to which the criteria indicating competitive outcomes are satisfied will be examined in turn.

#### Technical efficiency

It is very difficult to measure the efficiency of stevedoring operations. The disquiet which led to the Australian Government's Waterfront Strategy would suggest

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however that there are perceived inefficiencies arising out of work and management practices within the industry.

For some time there have been persistent claims that stevedoring costs in Australia are amongst the highest in the world. In addition, the longer time spent at terminals and the delays arising from strikes and other forms of union action adds to the overall cost of servicing cargo ships in Australia.

Overcapacity, poor container crane utilisation rates and shift arrangements are all cited as demonstrating a lack of efficiency in terminals. Depot rates far in excess of those charged by freight forwarders in the trans-Tasman trade are also suggested to be the result of inefficiency arising from work and management practices.

### Normal profits

There is evidence to suggest that terminal operators have been able to achieve high profits. The PJT found this to be the case in 1977 when capacity was scarce during a trade boom.

There is no reliable information to examine the degree to which innovative and efficient firms are rewarded. If profit levels do vary however it is probably because of market structure and not technological superiority. All firms have similar wage structures and by and large employ the same technology. Cost differences may arise because of favourable leasing costs, however, these are more likely to occur between ports and not within a port.

### Service differentiation

While the introduction of containerisation largely negates the need, the market sectors within the waterfront industry show little evidence of product differentiation. Terminal operators, with the exception of Strangs in Melbourne, mainly serve pure container ships. Conventional stevedores service a range of ship types but use similar equipment.

The price for these services has been reported to be largely determined by market power of the carriers served rather than the cost of the service required. For example, terminal operators claim that they charge some independent carriers less than the ships of the owning partners, even though they are generally smaller ships that could be expected to have higher unit loading and unloading costs.

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### Innovation

The recent experience of industry scrutiny within the Government's Waterfront Strategy by the working parties established under the Industry Committee suggest that innovation was not a feature of the industry. It was not until the industry was encouraged to examine problems raised by the Webber Task Force that some simple improvements to operations were recognised. These problems include such things as truck queues at terminals and significant breakdowns in communication.

### High degree of market knowledge

It is generally recognised that few shippers understand the waterfront industry. Conference 'slot swapping' arrangements make it difficult to determine how long cargo takes to undergo stevedoring and the charge for the service is not identified in the freight bill. Even where the ASC is provided with details of the change in stevedoring costs in freight rate negotiations, the possibility of transfer pricing or adjustments to the cost structure could render the information useless as a means of assessing individual items such as stevedoring costs. Carriers that are not participants in the industry are also not able to assess the average cost of stevedoring services because of the discrimination that apparently occurs.

Before examining the degree of contestability of the waterfront industry, those criteria which indicate oligopolistic market behaviour will be examined. The PJT Inquiry into Sydney terminals is the main source of the information drawn upon.

### Dependent action

The PJT found evidence of rates at Patricks and STL rising together in 1977. Although this does not necessarily imply collusion, it does suggest at least market leader-market follower behaviour as predicted for Cournot-Nash equilibriums in oligopolistic markets where capacity is largely fixed.

### Price discrimination

The PJT Inquiries indicated that container terminal charges were changed as capacity became scarce in 1977. The Tribunal also found that the industry set its own prices on a cost-plus basis that was extremely favourable to the industry. As already indicated, the terminal

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sector discriminates on price between associated or long-term customers. Some independent carriers have recently enjoyed some competition for their custom because of overcapacity in the terminal and conventional stevedoring sectors.

### Stable market shares

Carriers have generally maintained an association with the same terminal group. Only recently has there been competition at the margin, with some independent carriers changing terminals. Overall, there has been long-term stability with the change in market shares mainly reflecting the fortunes of the carriers.

### Contestability

A 'perfectly contestable' market is defined as one:

- in which the entrant suffers no disadvantage in terms of the technology used nor the perceived product quality relative to the incumbent (similar costs);
- into which entry is free and exit is absolutely costless;
- where the incumbents cannot change price quickly and invalidate the evaluation of profitability by the entrant in terms of the incumbents' pre-entry prices; and,
- where consumers move quickly in response to price differences.

The degree to which a market is contestable must be assessed subjectively by applying criteria which are unlikely to be fully met by any industry. Each of the criteria will be examined to provide an overall picture of the strength of the competitive influence on the industry from the threat of 'hit and run' entry.

### Similar costs

An entrant in the waterfront industry would be faced with the disadvantage of either under-utilising significant resources, including a permanent workforce, or entering the market in a way which the service provided is limited. These limitations could arise from fewer capital equipment items, less land or the requirement of having to rely on a labour pool which may not always be able to supply sufficient workers when required.

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If a large scale entry strategy was adopted, particularly in the terminal sector, there would have to be a rapid change in market shares in order to bring the entrant's average costs down to a level similar to those of the incumbents. This rapid change in market share is unlikely to eventuate however given the history of long-term associations between carriers and the waterfront industry participants. If on the other hand a small scale entry strategy was adopted in order to contain the initial cost disadvantage, the entrant would probably be faced with a service disadvantage; a significant impediment where carriers must consider the cost of ships delayed in port.

### Free entry and exit

There are large entry costs in the waterfront industry. Suitable land for new facilities is scarce with incumbents apparently prepared to under-utilise the available facilities rather than provide an opportunity for an entrant. More importantly, the net exit cost would be significant if the land could not be used for other purposes.

In the terminal sector an entrant would also be faced with expenditure on large items of capital equipment for which there may not be any market on leaving the industry, especially given the current level of over-capacity. Port authorities have tended to exacerbate these barriers instead of ameliorating them by their leasing arrangements and general withdrawal from involvement.

In other sectors such as conventional stevedoring and depots, the sunk cost problem may not be as significant. However, an important consideration is the risk of having to sustain considerable losses over a number of years until a sufficient market share is developed to provide for adequate profit levels. In the depot sector there is the additional barrier of the approved depot arrangements which have effectively prevented freight forwarders with existing depot facilities from having a greater role in the international export shipping markets.

### Price 'stickiness'

The time scale involved in establishing and marketing a new stevedoring service is sufficient for incumbents to set predatory prices. The carriers involved in the waterfront industry are in a better position than non-carrier potential entrants to conduct a price war

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because they have the opportunity to employ transfer pricing if the customer carriers take advantage of lower stevedoring prices to increase profit rather than market share.

### Consumer responsiveness

As already discussed the customers of the waterfront industry, the carriers, have retained long-term associations with particular firms. The conference associations reinforce this behaviour for a large share of the market.

Given that there are contract arrangements between industry incumbents and the carriers, it is difficult to perceive the carriers reacting quickly to lower prices offered by an entrant. More importantly they are unlikely to react quickly enough to prevent the industry incumbents from adjusting their prices downward in response to the entry.

### Overall performance

The criteria that must be met to suggest competitive outcomes are not generally satisfied by the Australian waterfront industry. Other criteria indicate past oligopolistic market behaviour. Finally, an examination of the contestability of the market also suggests that competitive influences from the threat of entry are relatively weak.

These factors suggest that the industry may be inefficient in an economic sense. This does not imply, however, that all firms are technically inefficient or that prices may be forced down towards average costs from time to time. With stevedoring costs included in the overall freight bill, ocean competition or trade conditions also have an influence on what the market will bear.

In respect of the latter point, it should be remembered that shippers will not necessarily benefit from any improvements to the efficiency of the waterfront industry unless there is competition amongst the carriers. Without competition between the carriers, lower stevedoring charges can be absorbed, in whole or part, as rents.

### GOVERNMENT INVOLVEMENT AND INTERVENTION

The problem faced by governments when considering whether to increase their involvement or intervene to regulate an industry with monopolistic tendencies involves some

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judgement as to the appropriate trade-offs. These are between taking advantage of the economies of scale or scope that bestow market power on the incumbents, and the need for the industry to be subject to the disciplines that flow out of monopolistic competition such as market responsiveness, technical efficiency and prices approaching average costs.

It is clear that in aiming to improve efficiency governments should first address those regulatory and institutional barriers that they can remove at reasonable cost (Sayers 1986). These would include removing any government regulations that restrict:

- .. access to the industry or inhibit price competition; and,
- .. the scale of entry into the industry (in terms of capacity) or affect the cost of exit from it.

After all artificial barriers arising from past government intervention are removed, a government might next consider whether to adopt a pro-active role (involvement without regulatory intervention) in order to foster competitive influences. This involvement could include:

- .. addressing large sunk cost problems where they exist, for example, through the public provision of facilities; or,
- .. ensuring access for new or potential entrants to existing facilities by encouraging sequential competition under leasing arrangements.

As a final resort, a government can intervene with regulatory controls such as:

- .. restricting market concentration;
- .. severing vertical integration links; and,
- .. requiring incumbents to file prices.

In deciding to intervene however, the government must be conscious of the costs of administering regulation and the risk that it may distort markets if the regulation is not sufficiently flexible to adapt to market developments. In addition, a government must recognise that unless the role of structural and institutional

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influences and the dynamics of market responses are well understood there is a risk that it may not achieve what it set out to do.

Historically there have been two distinct strands to government involvement in the Australian waterfront. Federal governments have been concerned with the labour market and State governments through their port authorities have provided port infrastructure and services, including stevedoring in some cases.

Federal governments have gradually withdrawn their involvement in the regulation of the labour market to a level where their role could be described as interested scrutiny. However recent initiatives such as the Webber Task Force and the Waterfront Strategy Investigation currently being undertaken by the Inter-State Commission suggest that the Government has concerns about the industry's performance and that it is prepared to take action if this is advised and considered appropriate.

The current arrangements are the result of industry negotiation rather than intervention. To a large extent they are the outcome of a powerful union exercising its power in a cost-plus industry environment where many of the participants concentrate upon minimising delays and disruption to shipping operations. In summary the labour market is deregulated but not open.

Port authorities have only recently been touched by the trend towards corporatisation or privatisation. Recently some State governments have reviewed the performance of their authorities and introduced new commercially orientated managements. In general, however, port authorities have not been subject to competitive influences or effective scrutiny by governments or the end users of their services, the ports' exporters and importers.

The port authorities' role in relation to the stevedoring industry has been largely passive. With the introduction of containerisation they have largely withdrawn their involvement and therefore in effect privatised the stevedoring industry.

The port authorities in adopting a passive role have not addressed entry problems in their leasing arrangements nor have they used their considerable powers to adopt pro-active measures aimed at greater scrutiny of performance and at achieving a greater influence over the behaviour of terminal operators and stevedores. In

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summary, ports have served the shipping industry but have generally overlooked their responsibility for securing the best possible terms for shippers.

### CONCLUSION

The waterfront industry in Australia has been deregulated and largely privatised since the introduction of new bulk handling technology and containerisation. There is evidence to suggest however that the performance of the industry is unsatisfactory.

The problems of the industry largely stem from the monopolistic and monopsonistic power of the participants. This has led to a situation where the industry is self-serving with a high degree of vertical integration and little opportunity for shippers to scrutinise its performance.

These problems point to the need for caution when deregulating and privatising industries that have a natural tendency to monopoly.

At the very minimum governments should put in place mechanisms such as the performance indicators proposed under the current Inter-State Commission Waterfront Strategy Investigation that shippers can use to monitor the industry's performance in order to draw governments attention to problems as they arise. There is also a case for the consideration of stronger measures aimed at ensuring the incumbents do not establish or institutionalise barriers to entry above those that occur naturally.

Based on the belief that there is a favourable trade-off between the gains from an increase in competitive influence and the attendant loss of efficiency, some might argue there is a case for restricting market shares. However, the nature of the trade-off has not been resolved as yet and there are counter arguments. First, there is no guarantee that increasing the number of participants in an oligopolistic market with limited market niche opportunities will lead to increased competition. Second, in the terminal and conventional stevedoring sectors, the potential improvement in industry performance flowing from greater labour productivity is likely to lead to counter balancing pressures to increase concentration in order to realise the efficiency benefits. Finally, any competition that arises could be perceived to be destabilising and

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destructive. Nevertheless, if the government does not consider that there is a sufficient case for this form of intervention it should always keep the option open.

There is also a case for examining the possibility of partially severing vertical integration links because it would remove some of the pressures faced by the carrier incumbents in their industrial relations dealings. This intervention option is unlikely to meet with much success in the terminal and conventional stevedoring sectors. The pressures that encourage vertical integration would remain and the buyers and sellers would probably enter into long-term contracts that would create barriers to competition and entry similar to those already existing. There would be some advantage, however, in regulating against carrier involvement in the depot sector. Severing the vertical links in this sector would facilitate the removal of the current artificial barriers to entry in what should be a competitive market. This would also encourage the greater freight forwarder involvement in the export trades necessary to ensure that a countervailing competitive influence is maintained on the carriers.

There is also a case for requiring the industry to file terminal and conventional stevedoring rates in order to increase the level of market awareness and scrutiny by shippers. This option would be particularly appropriate if the other more interventionist options of restricting market shares or severing vertical integration links were rejected. It would not involve significant administration costs because of the small number of participants in these sectors.

There is a need to move towards normal dedicated enterprise employment arrangements in the waterfront industry so that incumbents have greater flexibility to innovate and compete and to lessen the barrier to entry created by the current arrangements. Intervention may therefore be necessary in order to overcome current rigidities, facilitate retraining, assist with a reduction of the labour surplus in the industry and the introduction of a satisfactory basis for some casual employment.

In summary, this examination of the waterfront industry in Australia suggests that privatisation and total deregulation should not be viewed as a panacea to performance problems in all industries. Consideration should be given to the possibility that the outcomes may be unsatisfactory and that some government involvement or controls may prove necessary.

REGULATION AND PRIVATISATION IN THE AUSTRALIAN  
WATERFRONT INDUSTRY

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