**STRAIT STRANGLES OUR ECONOMY (MERCURY 25/5/14)**

**Jan Davis CEO of the Tasmanian Farmers and Graziers Association has voiced concerns (Mercury 6/5/14) that privatisation of the Port of Melbourne would have an adverse impact on rural producers with 30% of total freight crossing Bass Strait. That result could add freight costs to that imposed by the existing Port of Melbourne licence fee(PLF)**

**Since the ending of the direct export shipping service from Bell Bay in April 2011 Tasmanian export shippers have experienced a doubling of costs as they have to pay for goods through Melbourne before being shipped overseas. These cost escalations have been compounded by Tasmanian exporters not being entitled under the TFES to the $500 to ship to Melbourne.**

**By contrast a Victorian operator can purchase the same product, ship it to Victoria, follow the same process, export overseas and claim an advantage over Tasmanian firms.**

**The (PLF)is estimated by the Department of Infrastructure, Energy and Resources to cost Tasmanian exporters $13 million a year.**

**There are two possible avenues to challenging the PLF. Firstly, the Transport General Oversight Branch (TPGO) gives advice to the Australian Competition and Consumer Commission assisting with regulating third party access to essential infrastructure services under the National Access Regime and undertakes certain price oversight functions.**

**One of TGPO’s main roles is to advise on the regulation of transport and general infrastructure access in industries with infrastructure or supply chain bottlenecks or limited competition. This role includes the TGPO assessing proposed access undertakings and arbitrating access disputes in industries such as freight rail and ports. This has been done in the case of bulk wheat export terminals around Australia. The TPGO also has the responsibility for monitoring prices, costs and quality of services in various industries including container operator companies at major Australian ports.**

**It is clear that the PLF would come under the oversight of the TPGO. The Tasmanian shipping community has no other option than to use the Port of Melbourne for both its interstate and international trade.**

**The second approach could be the issue of the constitutionality of the PLF which might fall under the ruling by the High Court in *Hughes &Vale Pty Ltd* v *New South Wales(No2)* (1955) 93 CLR127.In that case the High Court struck down the Queensland *State Transport Facilities Act* 1946 requiring interstate road traffic to pay more than a reasonable sum for the use of its roads as breaching s92 of the Constitution requiring freedom of interstate trade.**

**This option was not followed up by the former Minister of Infrastructure David O’Byrne presumably on advice from the Department of Justice based on the cost of a High Court appeal.**

**. However, the TFGA and any producer or operator with a freight interest could raise the issue of the PLF with the TGPO.**

**Now that the Federal Government has ruled out the Committee of Audit’s recommendation to abolish the Tasmanian Freight Equalisation Scheme (TFES) it needs to needs to be reviewed as the Tasmanian Farmers and Graziers CEO Jan Davis has urged (Mercury 24/3/12)**

**The Productivity Commission on Tasmanian Shipping and Freight (2014) in its interim report offered extending the northbound leg of the TFES to cover all eligible goods shipped from Tasmania to the Port of Melbourne. An alternative to this would be referral of the PLF to the TGPO.**

**The Productivity Commission, which received substantial submissions from Tasmanian parties, stated it was assisted by the interim Tasmanian Government Freight Coordination Team Report. This followed a Productivity Commission Report (2006) concerns about the potential for market power to affect costs and capture the benefits of the TFES noting that the ACCC at that date considered the barriers of entry into Bass Strait shipping were high, one reason being that there was very little opportunity for a new entrant to gain access to berths, or develop additional ones with in the Port of Melbourne.**

**The Freight Coordination Team Report concluded that the Coastal Trading (Revitalising Australian Shipping)Act 2012(Cth) in its cabotage (coast trade) restrictions were likely to have an anticompetitive effect and impact on shipping costs for Tasmanian businesses. The Federal Minister Warren Truss has already signalled changing the Act to streamline the system for applying for temporary licences to use foreign ships on Australian coastal voyages. He voiced concern in the blow out in domestic shipping costs noting it was cheaper to ship cement from China than move it between domestic ports.**

**Both the Productivity Commission and the Freight Coordination Team hand down their reports in June.**

**As John Howard said in 1996” The transport disadvantage posed by Bass Strait is the single most serious impediment to jobs, investment and population in Tasmania”.**

**John Livermore**

***Disclaimer*  None of the opinions expressed in this article are necessarily those of the publishers of Laws of Australia, Thomson Reuters or the Tasmanian Logistics Committee.**

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