

COMPETITION IN THE IRISH PORTS SECTOR



2013



The Competition Authority
An tUdarás Iomaíochta

EXECUTIVE SUMMARY

Context

In the context of the Action Plan for Jobs, the Minister for Jobs, Enterprise and Innovation, Mr Richard Bruton T.D. asked the Competition Authority to carry out a study of competition in the ports sector in Ireland.

As an island nation Ireland is heavily dependent on its ports, and it is widely recognised that Ireland's future economic success will be dependent on its ability to trade internationally. Exports have been Ireland's only net contributor to economic growth in recent years. If port charges are unnecessarily high, or ports are operating inefficiently, this will increase the cost of importing and exporting goods.

Competition keeps prices and costs down and drives efficiency and service quality, all of which are key determinants of national competitiveness. Therefore, it is vital that competition in the Irish ports sector is working well. Research indicates that an increase in transport costs and/or port inefficiency will reduce trade volumes. It is especially important that competition for cargo handling services is working well as these services typically account for the largest percentage of the total cost of moving goods through a port.

This study evaluates how competition in the ports sector is working. We specifically examine the level of inter-port competition (competition between ports) and intra-port competition (competition within ports) for different cargo types. The main focus is on unitised cargo (i.e., Lo-Lo and Ro-Ro cargo in containers) and bulk cargo (e.g., liquid fuel, coal, fertiliser and animal feed). This is because exports are dominated by unitised cargo, while imports are dominated by bulk cargo.

Based on our evaluation, we have made six recommendations to improve the level of competition in the Irish ports sector. The evaluation and the recommendations are based on over 40 meetings with stakeholders, a public consultation process, Requests for Information (RFIs), quantitative analysis and economic literature.

Key findings

- The characteristics of the Irish ports sector are such that competition between ports (i.e., inter-port competition) appears limited.
- Ensuring that competition within a port (i.e., intra-port competition) works well is especially important.
- The leasing and licensing arrangements for Lo-Lo terminal operators in Dublin Port may have the effect of restricting competition.
- The current licensing arrangements for general stevedore services in Dublin Port also appear to have the effect of restricting competition.
- There is a lack of data collection and performance measures within the Irish ports sector.

The characteristics of the Irish ports sector are such that competition between ports (i.e., inter-port competition) appears limited.

Many factors influence inter-port competition. These include port location, traffic trends, haulage costs, cargo specialisation, service frequency, road connectivity and the level of competition within a port.

Lo-Lo terminal users increasingly utilise larger ports like Dublin, Belfast and Cork that are located next to Ireland's largest urban centres. Exporters, importers and freight-forwarders value the level of choice and service frequency, while container shipping lines value large scale terminals that can minimise cost by facilitating bigger vessels and larger more efficient cranes.

Competition for Ro-Ro services is limited to ports on the East Coast next to the shortest sea-crossings to Great Britain, while the demand for ports to supply frequent high quality Ro-Ro services has again placed larger ports like Dublin and Belfast in a strong position vis-à-vis smaller ports. Like Lo-Lo, larger ports are now more likely to attract business away from smaller ports than vice-versa.

Moreover, port service users will usually seek to use the nearest port to minimise haulage costs. This is especially the case for heavy bulk cargo. The concentration of dry bulk at Shannon Foynes and liquid bulk at Cork is heavily influenced by nearby industries. This limits the scope for inter-port competition.

Ensuring that competition within a port (i.e., intra-port competition) works well is especially important.

It is vital that intra-port competition is working well to lessen the ability of providers of port services to earn monopoly profits and offer inefficient services, particularly where inter-port competition is limited. Intra-port competition includes (a) competition between independent terminals and (b) competition to provide ancillary services. Competition to provide ancillary services occurs where multiple operators in a port compete to provide services such as stevedoring, pilotage and towage.

Ensuring that intra-port competition is working well in Dublin Port is especially important due to its pre-eminent position in the Irish ports sector. Dublin is the only major port in the State to have grown its overall market share since 2005, and export focused Lo-Lo and Ro-Ro cargo is becoming increasingly concentrated within Dublin Port at the expense of smaller ports like Rosslare and Waterford. In 2012, Dublin handled 43% of Ro-Ro cargo and 57% of Lo-Lo cargo on an all-island basis.

The leasing and licensing arrangements for Lo-Lo terminal operators in Dublin Port may have the effect of restricting competition.

The Competition Authority has concerns regarding the length of the leases and licences for the three Lo-Lo terminal service providers in Dublin Port. It is our understanding that two terminal operators have approximately 110 years and 85 years left to run on their leases, while the third terminal operator is providing Lo-Lo services under a general stevedore licence that was granted by Dublin Port Company (DPC) 20 years ago and will be renewed next year for another 20 years on identical terms once certain conditions are met. This

creates the possibility of repeated renewals of the licence for an indefinite number of consecutive 20 year periods. In other countries the average term for port terminal leases ranges from about 15 to 40 years.

The length and nature of the leases and the licences combined with the lack of cargo handling space next to the North Quay walls means the threat of entry is limited. Dublin Port's pre-eminent position for Lo-Lo cargo and the terminal operators' vertical integration with shipping companies means that in the absence of spare capacity, there is potential for the incumbent terminal operators to charge significantly more and offer an inferior level of service than would be the case in a more open competitive market. Moreover, while DPC can impose performance measures on the licensed terminal operator, it cannot do the same for the leaseholders.

The current licensing arrangements for general stevedore services in Dublin Port may have the effect of restricting competition.

The Competition Authority also has concerns regarding the licensing of stevedore services within Dublin Port. There are only two 'general stevedore' licences currently available that allow for the direct provision of stevedore services in the common user quays on the Northside and Southside of the port where most dry bulk handling takes place. Furthermore, the need to provide cranes and warehousing means that one stevedore service provider generally provides stevedore services on the Northside while the other provides stevedore services on the Southside of the port. These companies therefore enjoy effective monopolies in their respective licensed areas.

The general stevedore licences were granted 20 years ago and will be renewed next year for another 20 years on identical terms once certain conditions are met (one of these stevedores also provides Lo-Lo cargo-handling services using the same licence). This again creates the possibility of repeated renewals of the licence for an indefinite number of consecutive 20 year periods.

While new licences can be issued, DPC have indicated that due to space constraints, licensing multiple stevedores may not be the optimal outcome and could limit the scope for future investments in cranes and other cargo handling equipment. DPC have also requested that licence applicants must demonstrate that they can attract new business to the port. A similar conservative approach to stevedore licensing has been adopted by other port authorities around the country.

The current licensing system appears overly restrictive and could be limiting competition from more efficient stevedores. If Dublin Port were to experience a spike in bulk tonnage, the incumbents could charge a higher price and offer a lower quality of service than would be the case in the presence of robust competition where there is a threat of entry.

There is a lack of data collection and performance measures within the Irish ports sector.

While recognising that collecting data and producing performance measures in the ports sector is extremely challenging, it is important that these challenges should not inhibit the collection and development of new data metrics and port performance measures. For example, while there is no "catch-all" benchmark to facilitate a cross-comparison of port charges and efficiency levels, an

alternative would be to examine the performance of each port against its previous year's performance. A cross-comparison of port charges and efficiency, both nationally and internationally, can provide an indication of the competitive environment that ports are operating in.

The lack of data collection is hindering the ability for national policy-makers to accurately monitor competition and performance levels within the ports sector and direct future policy in a way that ensures that ports are operating as effectively as possible.

Recommendations

Recommendation 1: Leasing and licensing of Dublin Lo-Lo terminals

The leases that Lo-Lo terminals operate under are exceptionally long and may have the effect of restricting competition by severely limiting the scope for new entry. Dublin Port Company should seriously consider reducing the duration of these leases in order to address their anti-competitive impact.

For the same reason, the clause which appears to allow the repeated renewal of the licence of the third Lo-Lo terminal operator should be amended to facilitate new entry.

Future terminal leases and licences should be awarded for shorter periods on a fair, reasonable and non-discriminatory basis and should include efficiency incentives that are enforced by Dublin Port Company.

The terms and conditions of the leases and licences, including their length, should be designed in a manner that ensures effective competition and reflects the level of investment required to provide cargo handling services.

Consideration by: *The Department of Transport, Tourism and Sport and Dublin Port Company.*

Recommendation 2: Stevedore licensing

Dublin Port

In Dublin Port, at least two new general stevedore licences should be issued by Dublin Port Company – one on the Northside and one on the Southside of the port. As stated in Recommendation 1, the clause in the existing stevedore licences which appears to allow the repeated renewal of the existing stevedore licence at the licensee's option and on identical terms should be amended.

All ports

General stevedore licences should be granted to applicants on a fair, reasonable and non-discriminatory basis or through a tendering process. Specifically, licensing criteria adopted by any port authority requiring applicants to demonstrate that they will attract new business to the port should be removed. Where stevedore services are provided exclusively by a port authority stevedore, this requirement should be clearly justified by the relevant port authorities.

Self-handling licences should be made available to all responsible operators on a fair, reasonable and non-discriminatory basis at a cost that does not discourage entry.

Consideration by: *The Department of Transport, Tourism and Sport, Dublin Port Company and all other Tier 1 and Tier 2 Ports of Regional Significance.*

Recommendation 3: Port closure and amalgamation

The policy focus should be to preserve competition and ensure that larger ports are working effectively and competing with one another. While port closure or amalgamation may result in lower administrative costs they are unlikely to enhance inter-port competition.

Any amalgamation should be carefully considered and focus on ensuring that the amalgamated entity can generate the necessary scale to compete with Dublin Port.

The Competition Authority recommends:

- If a merger is being proposed, the Department of Transport Tourism and Sport should be required to seek the views of the Competition Authority regarding a range of factors that would need to be considered to ensure that the merger does not substantially lessen competition;
- Alternatively, those ports with turnovers below the existing merger thresholds should be designated by the Minister for Jobs Enterprise and Innovation as a class of mergers and acquisitions that would have to be notified to the Competition Authority for review regardless of the turnover of the parties involved.

Consideration by: *The Department of Transport, Tourism and Sport and the Minister for Jobs, Enterprise and Innovation.*

Recommendation 4: Modify existing ownership and management models

The Department of Transport, Tourism and Sport should mandate the promotion of effective intra-port competition as a key objective for port authorities that is imposed by regulation or legislation as appropriate.

Consideration by: *The Department of Transport, Tourism and Sport.*

Recommendation 5: Government investment in port-related road and rail infrastructure

Future government investment to improve road and rail infrastructure may be justified for a number of reasons – e.g., to remove bottlenecks, to abide by EU regulations or to drive regional development.

However, it is unlikely that any future government investment in port-related road and rail infrastructure could be warranted exclusively on competition grounds. Therefore, any decision to justify investment in port-related road and rail infrastructure within this context should be carefully considered.

Consideration by: *The Department of Transport, Tourism and Sport*

Recommendation 6: Data collection and port performance measures

This study has highlighted the lack of data collection and port performance measures within the Irish ports sector. This information is vital to analyse the level of competition and to guide future policy-making in the Irish ports sector.

While recognising the challenges involved, the Department should prioritise the collection and development of new data metrics and port performance measures for Tier 1 and Tier 2 ports.

Consideration by: *The Department of Transport, Tourism and Sport*



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