10 Anson Road #16-18
International Plaza Singapore 079903
Tel +65 63254737 Fax +65 63254451
Email: information@asa.org.sg
Website: www.asianshipowners.org

ASA
Asian Shipowners' Association

Competition and Consumer Commission of Singapore's

Proposed Recommendation for the Block Exemption Order for Liner Shipping Agreements

Submission of The Asian Shipowners' Association

4 August 2021

Table of Contents

Introduction

The Asian Shipowners' Association ("ASA") appreciates this opportunity to comment on the Competition and Consumer Commission of Singapore's ("CCCS") Proposed Recommendations for the Block Exemption Order for Liner Shipping Agreements, released on 14 July 2021 ("CCCS Proposal"). ASA welcomes and supports this proposal, and wishes to add some additional feedback for the CCCS' consideration. ASA also supports the separate comments being submitted by the World Shipping Council, which include detailed factual and economic support for the CCCS' Proposal to extend its longstanding block exemption for vessel sharing agreements ("VSAs").

Statement of Interest

The ASA is an organisation of the national shipowners' associations of Australia, China, Chinese Taipei, Hong Kong, Japan, Korea and the Federation of ASEAN Shipowners' Associations comprising Brunei, Indonesia, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. The ASA membership together is estimated to represent approximately 50% of the world merchant fleet today. The role of the ASA is to promote the interests of the Asian shipping industry and express its views on key issues affecting this industry, such as the importance of continued competition law exemptions for vessel sharing agreements in Singapore and other international shipping trades. ASA's containership carrier membership relies on Singapore's block exemption and therefore ASA has a direct interest in this matter.

Summary of Major Points

As a premiere global maritime centre, and operator of the world's second largest port, Singapore has maintained a block exemption order ("BEO") for liner shipping agreements ("LSAs") for many years. It has consistently found that these important agreements meet the criteria for a block exemption under the Competition Act ("Act"). In its Proposal, the CCCS has found that LSAs continue to generate net economic benefits under the block exemption standards in the Act, and has proposed to recommend a renewed BEO for three years for VSAs and price discussion agreements for feeder services only. ASA fully supports the CCCS Proposal to extend the VSA exemption, but believes a longer-term exemption of five years, which is consistent with Singapore's past practice and best international practices, would be more beneficial to the Government and all stakeholders in the international ocean transport sector. Given how indispensable VSAs are to ocean carriers, Singapore's economy, and world trade generally, ASA focuses its comments below on the CCCS Proposal to renew its VSA exemption. ASA does not have any comment on the CCCS Proposal to extend the price discussion agreement exemption for feeder services, or what an appropriate definition for feeder services should be under the BEO.

Comments and Responses to Select Questions

1. **What are your views on the proposal to extend the BEO in respect of vessel sharing agreements?**

ASA strongly supports the CCCS's proposal to further extend the BEO for VSAs, which have provided significant benefits to stakeholders in the Singapore ocean trades, including (1) helping to promote regular and reliable liner shipping services, (2) promoting investment in urgently needed vessel capacity, (3) preserving a broad range of competitive choices for Singapore's importers and exporters, and (4) helping Singapore remain a highly competitive world maritime centre and key transshipment hub in Asia.

VSAs are efficiency-enhancing arrangements that are wholly consistent with the objectives of the Competition Act. They are purely operational agreements that do not provide for any engagement between the parties on rates, charges or commercial terms offered to customers of the carriers. Virtually all major international ocean carriers participate in VSAs, and most services on major trades today are VSA services rather than individual line services. By allowing carriers to exchange or share space on each other's vessels, or in some cases integrate their vessels into a coordinated operating arrangement, VSAs enable each carrier to offer more service in more trades with lower capital cost commitments and better utilization of space. The result for ocean carriers is the promotion of efficient use of vessel capacity and the facilitation of a greater investments in new, more efficient, and urgently needed tonnage. These efficiencies also benefit importers and exporters, and national economies, by offering broader service coverage at lower cost, on newer, more efficient and technologically up-to-date vessels. ASA is pleased to see the CCCS agrees, noting in its Proposal that VSAs continue to improve the connectivity of Singapore's port, increase the carriers' utilisation of space on their vessels, allow carriers to save costs, and enhance overall competition in the trade for the benefit of consumers.[1]

ASA is also pleased to see that CCCS has recognized that many of the factors that the CCCS took into account in its last full review of the BEO for VSAs in 2015 are still true today, including the size of Singapore's economy, the fact that Singapore is not a major port of origin or destination, and that a very large proportion of Singapore's containerised cargo throughput involves transshipment.[2] In this regard, a renewal of the VSA exemption will help Singapore maintain its competitive position vis-à-vis other neighbouring countries in Asia, both in terms of trade in goods and port services, and also keep Singapore's regime consistent with virtually all of its major trading partners, who provide an exemption for VSAs. The European Union ("EU"), for example, just renewed in 2020 its consortia (i.e., VSA) exemption through April 2024. The EU's findings mirror the CCCS' Proposal, noting that VSAs "generally help to improve the productivity and quality of available liner shipping services by reason of the rationalisation they bring to the activities of member companies and through the economies of scale they allow in the operation of vessels and utilisation of port facilities. They also help to promote technical and economic progress by facilitating and encouraging greater utilisation of containers and more efficient use of vessel capacity."[3]

---

[1] CCCS Proposal at Paras. 7-9.

[2] *Id.*

[3] Commission Regulation (EC) No 906/2009 of 28 September 2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia) at Para 5.

2. **What are your views on the proposed period of extension of the BEO (i.e. an extension of 3 years until 31 December 2024)?**

The CCCS Proposal recommends an extension of the BEO for VSAs for a term of 3 years, which the CCCS says is "comparable to block exemption orders for LSAs in other jurisdictions."[4] ASA believes there are several reasons why the CCCS should consider a longer-term exemption of five years.

First, Singapore has 15 years total years' experience with a VSA block exemption, all with positive results. Since 2006, the results have generally shown improved services and expanded container trade, with Singapore's port showing even more significant growth than its regional competitors. Importers and exporters have had numerous competitive carrier options and service to meet their growing demands.

Second, a longer term exemption is consistent with other countries' VSA exemptions which have found that the need for and benefits of the VSA exemption are not short-term. Indeed, the great majority of countries do not place any term limits on their VSA exemptions, including China, Japan, and the United States. Hong Kong, which does not have the same level of experience with VSAs as Singapore, has a VSA exemption for five years, and the EU just renewed its exemption for four years.

Third, the CCCS is proposing to significantly reduce the scope of its price discussion agreement exemption to only feeder services. Given that VSAs are purely operational agreements that do not involve commercial matters, there should be less competitive concern with the renewal, which supports a longer term exemption. The BEO also includes a number of administrative requirements on VSAs, and gives the CCCS adequate oversight in order to monitor the activities of VSAs in the Singapore trades on an ongoing basis.

---

[4] *Id.*

Finally, a longer term exemption would benefit both Singapore and the liner shipping industry by providing an exemption of a sufficient duration that will provide the legal certainty to allow carriers to plan well in advance and make the necessary long-term investments in vessels and equipment. As the CCCS likely knows, ocean carriers are continuing to invest in vessels, equipment, and infrastructure to meet the growing needs of importers and exporters. Service and vessel new building decisions are made several years in advance, with some current vessel newbuildings not scheduled to be delivered for over two years. VSAs themselves are often longer than three years duration. Certainty and stability are critical because of the lead times needed to order ships or redeploy fleets. A three-year exemption could very well act as a disincentive to very much needed long-term capital investment in ships. A five year exemption would provide the needed certainty of Singapore’s regulatory policies to an industry that is critical to Singapore’s economy and to its import and export community.

<u>Conclusion</u>

ASA strongly supports the CCCS Proposal to renew Singapore’s VSA exemption, and appreciates the CCCS’ consideration of ASA’s request that it continue to support a five year extension as it has done in previous renewals.

Respectfully submitted
ASIAN SHIPOWNERS' ASSOCIATION

Yuichi Sonoda
Secretary General