International Chamber of Shipping
Shaping the Future of Shipping

Walsingham House, 35 Seething Lane
London EC3N 4AH

Tel +44 20 7090 1460

info@ics-shipping.org | ics-shipping.org

Ms Leow Rui Ping
Assistant Director
Policy and Markets Division
Competition and Consumer Commission of Singapore
Singapore

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Submitted via email: CCCS_consultation@cccs.gov.sg
Copied to: leow_rui_ping@cccs.gov.sg

Dear Ms Leow,

COMPETITION AND CONSUMER COMMISSION OF SINGAPORE ("CCCS") CONSULTATION ON PROPOSED RECOMMENDATION FOR THE BLOCK EXEMPTION ORDER FOR LINER SHIPPING AGREEMENTS

Submission by the International Chamber of Shipping (ICS)

STATEMENT OF INTEREST

The International Chamber of Shipping (ICS) is the global trade association for shipowners and operators, representing all sectors and trades, including containership operators. Collectively, ICS represents over 80% of the world's merchant shipping tonnage. The membership of ICS comprises national shipowners' associations from 38 countries, including the Singapore Shipping Association (SSA), while the Asian Shipowners' Association (ASA) is a regional partner of ICS.

This submission is therefore made on behalf of the ICS global network of member national associations and their member companies, in response to the ongoing CCCS public consultation on 'Proposed Recommendation for Block Exemption Order for Liner Shipping Agreements' (14 July 2021).

SUMMARY OF MAJOR POINTS

The ICS comments, as set out below, are generally complementary to separate submissions made by the Singapore Shipping Association (SSA), the Asian Shipowners' Association (ASA) and the World Shipping Council (WSC).

Since 2006, through section 36 of Singapore's 'Competition Act', the government of Singapore has continued to exempt liner shipping agreements from section 34 of the Act, which bans anti-competitive agreements.

This 'block exemption order (BEO)' grants legal certainty to liner shipping companies, which allows them to increase and enhance the services they provide, while maximising efficiency by sharing vessels in a way that fulfils the net economic benefit criteria set out in section 41 of the Competition Act, i.e., they contribute to improving distribution, while promoting economic progress and fostering increased competition among liner shipping companies.

ICS therefore kindly requests that CCCS propose an extension of the BEO for an additional period of five years instead of three. A longer extension would increase legal certainty and allow the industry to continue to make substantial investments (in the billions of dollars) – towards new ships and equipment – with confidence. This would in turn help to further develop and deliver the maritime services on which national economies, including Singapore, rely upon so heavily.

ICS COMMENTS AND RESPONSES TO CONSULTATION QUESTIONS

ICS views on the proposal to extend the BEO in respect of vessel sharing agreements and price discussion agreements for feeder services

Having reviewed the current CCCS proposal to extend the BEO, ICS supports the substance of the Commission's preliminary recommendations, noting with appreciation that those conclusions were based on recent market developments in the liner shipping industry, the international regulatory landscape governing LSAs, and consultation with various industry stakeholders, including liner shipping companies, freight forwarders, importers and exporters.

More specifically, ICS fully supports the proposed recommendations on Paragraph 5a. of the consultation document, in which CCCS determines that LSAs generate net economic benefits in respect of VSAs for liner shipping services. With respect to Price discussion agreements for feeder services (Paragraph 5b.), ICS has no policy position as explained elsewhere in this document (see page 3).

ICS views on the proposed period of extension of the BEO (i.e. an extension of 3 years until 31 December 2024)

With the current BEO set to expire on 31 December 2021, we also note the CCCS proposal to recommend a BEO extension of 3 years only. ICS kindly requests that CCCS recommend a longer-term 5-year exemption instead of the three years being proposed.

We note that a 5-year exemption would be in line with the terms of other exemptions for liner shipping agreements in Asia, such as Hong Kong. It would also be consistent with previous CCCS reviews, which have led to BEO extensions every five years since 2010. This shorter extension could lead to uncertainty and act as a disincentive for companies wishing to make long-term commitments in Singapore.

ICS views on the impact of the proposed recommendation on the liner shipping business (i.e. has the impact been positive, negative, or neutral? Why?)

Vessel Sharing Agreements (VSAs)

The BEO is an invaluable tool that maximises efficiency in liner shipping that is ubiquitous and critical for the successful operation of the global water-borne containerised supply chain is vessel sharing.

As noted in the consultation document, VSAs allow for discussion and agreement on technical and operational arrangements regarding the provision of liner shipping services, such as coordination or joint operation of vessel services and exchange or charter of vessel space. Outlined below are some of the benefits derived from VSAs:

- Increased quality of service (connectivity and frequency);
- Cost efficiencies;
- Decreased costs of entry and expansion;
- Increased efficiencies in utilising port capacity; and
- Environmental benefits.

These enhancements to the levels of service, arising from liner shipping agreements (LSAs), continue to be passed on to shipping line customers – the shippers that move their goods in international trade, providing the backbone of the global economy – in Singapore and beyond, through a global maritime transport network that caters to the demands of international trade. By having one or more partners among which space on ships is shared, more carriers can offer scheduled services to more ports than those carriers could offer individually. The consolidated cargo volumes also allow carriers to deploy bigger, more efficient vessels, which the carriers could not deploy if they all were operating individually.

Price Discussion Agreements for feeder operators

ICS notes that, by and large, liner shipping companies engaged in long haul maritime trade have not participated in price discussion agreements for many years. As such, ICS has no policy position on the CCCS Proposal to extend the price discussion agreement exemption for feeder services, or on what should be the appropriate definition for feeder services under the BEO.

We note, however, that few “voluntary discussion agreements” between major carriers remain in effect, e.g. in Singapore.

Other comments on the proposed recommendation: Impact of Covid-19 on LSAs

We recall that in August 2020, the Singapore government extended the BEO by a single year (until 31 December 2021), to be able to consider more fully the impact of Covid-19 on LSAs, which might have been affected by the aftershocks of the pandemic.
ICS notes that in the face of uncertainty brought about by Covid-19, the fundamental structure of the industry remains unchanged, i.e., the industry remains unconcentrated on a global basis, underpinned by intense competition among liner shipping companies, whether they share space on their ships or not.

In addition to the economic efficiencies created by vessel sharing, which are passed on to customers of shipping lines, vessel sharing is an important tool for reducing air emissions from ships. This includes both emissions such as sulphur oxides (SOx) that are regulated for human health reasons and greenhouse gases. Much will have to be done to meet these environmental targets, and one of the core efficiency tools is vessel sharing, which is encouraged and facilitated by the BEO.

CONCLUSION

The BEO is an indispensable and well-functioning component of the global maritime logistics chain. Moreover, as explained above, LSAs are vital tools which allow the shipping industry to better facilitate the flow of global trade, through increased service options and reliability.

An extension of 5 years to the BEO (instead of 3) would therefore provide legal certainty for liner shipping companies and reemphasise Singapore's enduring commitment to the sustainability of world trade, while continuing to foster competition, cost reductions and maximising the efficiency of shipping services.

ICS sincerely hopes that the above remarks, submitted on behalf of our global membership, will assist CCCS in its deliberations.

Yours sincerely

Simon Bennett
Deputy Secretary General
Simon.Bennett@ics-shipping.org