

MEDIA RELEASE

6 April 2006

Competition Commission Consults on Proposed Block Exemption Order (BEO) for Liner Shipping Agreements in the Maritime Industry

In December last year, the Competition Commission of Singapore (CCS) announced that it will recommend to the Minister for Trade and Industry to exempt certain categories of liner shipping agreements from section 34 of the Competition Act (Cap. 50B) ('Act')¹. The CCS has today issued the details of a proposed Block Exemption Order (BEO) for public consultation.

2. Singapore is part of a global shipping network. The CCS is mindful of the larger regulatory environment within which different stakeholders in the shipping industry operate. The proposed BEO sets out a proposal for a regulatory environment broadly aligned with that already in place for major jurisdictions, and which will promote and sustain competition as well as ensure that businesses in Singapore have on-going access to reliable and competitively priced liner shipping services of adequate frequency.

3. The proposed duration of the BEO, which will take effect retrospectively from 1 January 2006, is five years. Liner shipping agreements² relating to scheduled liner shipping services³ will be exempted under the BEO from the section 34 prohibition, if they fulfill certain conditions such as allowing member liner operators to offer their own service arrangements on a confidential basis. Where the members of a liner shipping agreement collectively hold more than 50% market share in any market operated under the agreement, they are required to fulfill certain conditions relating to the filing and publication of information for the agreement to be exempted. An exemption may be cancelled in a particular case where a liner shipping agreement produces effects that do not satisfy the criteria as set out in section 41⁴. The CCS may, where circumstances so warrant, review the BEO before the expiry of 5 years.

4. The CCS will make a recommendation to the Minister for Trade and Industry for the issue of a BEO for the maritime industry by July 2006, after the CCS has evaluated written submissions received during the public consultation.

Public Feedback

5. The consultation documents, including a copy of the proposed BEO, can be downloaded from the CCS website at www.ccs.gov.sg under the section "Public Consultation" (which directs users to subsection "New Consultations") and the Government Online Consultation Portal at www.feedback.gov.sg. The closing date for submission is at or before noon on 27 April 2006⁵.

6. The CCS will conduct a technical briefing on 12 April 2006 for the maritime industry and relevant stakeholders. Interested parties should refer to the CCS website at www.ccs.gov.sg (under subsection "New Consultations") for registration details.

7. Please refer to Annex A for background information.

- End -

About the Competition Commission of Singapore

The CCS is a statutory body established under the Competition Act (Cap 50B) on 1 January 2005 to administer and enforce the Act. Its mission is to promote healthy competitive markets that will benefit the Singapore economy based on sound economic principles applied objectively and consistently. For more information, visit www.ccs.gov.sg.

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Notes to Editor:

1. The prohibition in section 34 of the Competition Act relating to anti-competitive agreements came into effect on 1 January 2006. The focus is on activities, that have an appreciable adverse effect on competition in Singapore and which do not have a net economic benefit.
2. 'Liner shipping agreement' means an agreement between two or more vessel-operating carriers which provide liner shipping services pursuant to which the parties agree to co-operate in the joint provision of liner shipping services in respect of one or more of the following:
 - (i) technical, operational or commercial arrangements; or
 - (ii) price.
3. 'Liner shipping services' means the transport of goods on a regular basis on a particular route or routes between ports, in accordance with timetables and sailing dates advertised in advance and available, even on an occasional basis, to any transport user against payment. Liner shipping services include inland carriage of goods occurring as part of through transport but do not include bulk and tramp shipping.
4. Section 41 sets out the criteria for block exemptions. A block exemption may be made to exempt agreements which contribute to
 - a. improving production or distribution; or
 - b. promoting technical or economic progress, and
 - i. does not impose on the undertakings concerned restrictions which are not indispensable to the attainment of those objectives; and
 - ii. does not afford the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the goods or services in question.
5. Mode of Consultation:
 - a. Written submissions are to be sent to the CCS through email **and** either by post/courier or by fax:

Email: CCS_Draftguidelines@ccs.gov.sg

AND

Post/Courier: Competition Commission of Singapore
5 Maxwell Road
#13-01, Tower Block
MND Complex
Singapore 069110
Attn: Director, Economics

Fax: (65) 62246929

b. Parties that submit comments should organise their submissions as follows:

- i. Cover page;
- ii. Table of contents;
- iii. Summary of major points;
- iv. Statement of interest;
- v. Comments; and
- vi. Conclusion.

c. Supporting material may be placed in an annex. All submissions should be clearly and concisely written, and should provide a reasoned explanation for any proposed revision to the proposed block exemption order ('BEO'). Where feasible, parties should identify the specific paragraph of the proposed BEO or the consultation paper on which they are commenting. In any case in which a party chooses to suggest revisions to the text of the proposed BEO, the party should state clearly the specific changes to the text that they are proposing.

d. All submissions should be made at or before **noon, 27 April 2006.** Submissions must be submitted in both hard and soft copies (in Microsoft Word format). Parties submitting comments should include their personal/company particulars as well as their correspondence address, contact numbers and email addresses on the cover page of their submissions.

e. The CCS reserves the right to make public all or parts of any written submission and to disclose the identity of the source. Commenting parties may request that any part of the submission that the commenting party believes to be proprietary, confidential or commercially sensitive be kept confidential. Any such information should be clearly marked and placed in a separate annex. Where the CCS agrees with the request, it will consider the information but will not publicly disclose it. If the CCS rejects the request, it will not consider the information and will return the information to the party that submitted it. As far as possible, parties should limit any request for confidential treatment of information submitted. The CCS will not accept any submission that requests confidential treatment of all, or a substantial part, of the submission.