COMPETITION COMMISSION OF SINGAPORE

Public Consultation on
Proposed Block Exemption Orders for Liner Shipping Agreements

Comments by
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TABLE OF CONTENTS

A. SUMMARY OF MAJOR POINTS 2

B. STATEMENT OF INTEREST 2

C. COMMENTS 3

D. CONCLUSION 3

A. Summary of major points

The Competition Commission of Singapore (CCS) should reconsider its decision to grant Block Exemption Order (BEO) to liner shipping agreements as it goes against the grain of Singapore's free trade policy. If the BEO is deemed necessary to align Singapore with international norms, CCS should review the terms of the BEO as they are unnecessarily generous to liner shipping agreements.

B. Statement of Interest

The Singapore National Shippers Council (SNSC) has championed the rights of shippers since it was established on 12 September 1972. Together with other shipper organisations, it has fought against the cartel practices of liner shipping agreements such as Far Eastern Freight Conference (FEFC) and the Straits/New York Conference (SNYCON) to dictate terms and conditions for the carriage of goods. This concerted action, coupled with the entrance of non-conference carriers and tougher trade regulations, has weakened the influence of liner shipping agreements.

With the backing of the Asian Shippers' Council, a pan-Asian shippers' council in which SNSC is a founding member, SNSC is continuing to fight for shippers' rights. The councils have strong objections to the BEO in general, and the terms of the BEO in particular, as they are out of sync with Singapore and the free trade policy it espouses. The BEO, which CCS is granting liner shipping agreements for a period of five years, will also compromise the economic benefits accrued to Singapore, a trade dependent country, should other jurisdictions remove the BEO ahead of the exemption period.

C. Comments

A proponent of free trade, Singapore has one of the most liberal and transparent trade regimes in the world. It is also an active member of regional and international economic fora, including the World Trade Organisation, and pursues Free Trade Agreements to further liberalise and facilitate trade and investment.

CCS' decision to grant the BEO to liner shipping agreements is not in keeping with this free trade spirit which Singapore advocates. This will send a wrong message to Asia and the world, which perceive Singapore as a stout defender of the free market.

The anti-trust immunity shipping lines have enjoyed for well over 100 years is already obsolete in view of impending changes at the European Commission, which is putting the mechanism in place to outlaw block exemptions on trades from Europe. To accord liner shipping agreements a BEO of five years, effective from 1 January 2006, when the momentum in Europe suggests that changes to the law governing exemption could come sooner, is in our view unnecessarily generous. CCS should reconsider this, as it had noted in its cover letter, "Singapore is part of a global shipping network" and Singapore's regulatory environment should be aligned with that already in place for major jurisdictions.

The councils also take exception to preconditions which apply only to liner groupings with more than 50% market share. Shippers already view with concern Maersk's acquisition of P & O Nedlloyd, which raises its market share to nearly 20%. If preconditions have to be established, it is the councils' view that the quantum should be lower to allow the free play of market forces and avert any possibility of a monopoly.

D. Conclusion

Distortion of the free market is self-defeating. Rather than provide for stability, it worsens the boom and bust cycle endemic in the shipping industry. Record profits during the boom years are invested in new ships creating an oversupply situation and the resultant collapse in freight rates, to the detriment of shipping lines and shippers. Instead of pursuing block exemptions for liner shipping agreements, which allow liner shipping companies to talk to their competitors, liner companies should be talking to their customers, the shippers. CCS should discourage the distortion the free market by doing away with the BEO.