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Federal Maritime Commission

Washington, DC

Attn: Secretary:

As per the Federal Register request for comment on whether foreign NVOCC's should continue to be regulated and the requirement to continue to file rates with the FMC, please see my concerns below.

Our company is a Freight Forwarder and not a NVOCC. We are challenged daily with situations that concern freight forwarders and NVOCC's in Canada. There is no distinction between NVOCC's and Freight Forwarders in Canada, or any other country for that matter. Anyone can quote any rate they want, ship it, and never file it. When we freight forwarders are quoting a customer based off of a rate we have received from an US NVOCC or Direct Carrier, we are still regulated by the FMC as a Freight Forwarder. At this time Canadian NVOCC/Freight Forwarding community knows they would have to file a rate with the FMC, so they follow the regulations. It helps keep the playing field equal. If the requirement changes so that no one outside the U.S. has to file rates with the FMC directly and keep the rates on file in their respective offices, then who is going to check on these entities to make sure they are doing it and correctly? If the other countries do not file rates for anything other than U.S. shipments now, what makes anyone believe these rates will still be filed within each of the offices and ready to be reviewed by the FMC? If the FMC is still the governing body to make sure foreign NVOCC's are indeed keeping these tariffs in their respective office, does the FMC have a budget and manpower to actually enforce outside the U.S. borders? Given the U.S. Government is in such a deficit now and everyone is focused on cutting the spending, I do not see these resources being available to the FMC. Once it is known outside the US that there is no budget to enforce this regulation, the foreign NVOCC's are going to play by their rules, not ours. For a lack of a better scenario, once the horse is out of the barn, there is no going back, unless the government has a lot of money to spend to correct it later, down the road.

As a NVOCC in the U.S., one might be able to compete with the foreign NVOCC at that point, but it will be very difficult. We U.S. Freight Forwarders will be extinct, because we will still have to abide by the regulations set forth.

Another concern I would like to bring to light is it is difficult already to act solely as a Freight Forwarder in the U.S. One of the hardest items is to have any Direct Carrier produce an accurate rate quote. One carrier might quote only the ocean freight portion, but leave off all the additional charges. At times, these additional fees are not even well known by the people representing the carrier. Furthermore, when it comes to Freight Forwarder Brokerage Compensation, it is also becoming harder on the forwarder. The Direct Carriers used to all pay brokerage to the freight forwarder for various reasons to all destinations. Now, the carriers are cutting out paying brokerage altogether to freight forwarders to specific destinations. Once one carrier announces their change to not pay brokerage, another carrier will do the same. Once all the carriers that service that area of the world have quit paying brokerage, another location in the world is selected and the domino effect continues. It isn't all at the same time that these carriers chose to announce the fact they will quit paying brokerage, so no one can state they were colluding over the non-payment of brokerage, but simply following one's competitor. Whenever, either of these two scenarios has been asked of anyone at the FMC or the direct carrier, the answer is that the brokerage rates and the additional fees are in the carrier's "tariff". That seems like a good answer to the one giving it, but not a real answer to those needing to know. Most carriers do not have a single tariff. Therefore, even if I did have access to the carrier's tariff, I wouldn't know which one to look into. If I want to look at a tariff, most all carriers use a "service" to "manage" their tariffs. If I want to look at it, I am charged a fee. That is outrageous and is like someone walking into a restaurant wanting to look at the menu, but being told they would have to pay just to look at the menu. Given I was able to do all of this after all of these hurdles and extra costs, I could then finally go back to my customer and give him/her a rate quotation. However, at this point the NVOCC has already been able to quote the rate, make the booking, and start moving the container. As you can see, this is not a level playing field for the freight forwarding community.

In the above paragraphs, I hope to have made at least two major points:

1. The foreign NVOCC's should not be allowed to hold tariffs in their offices and should continue to file directly with the Federal Maritime Commission. If allowed, this will only demise the shipping community within the United States as we know it today.
2. If the Federal Maritime Commission is asking the community on how to help the NVOCC business, I think it should also be asking how the FMC can help the U.S. Freight Forwarder's business.

Thank you for your time. I know I am not a lawyer and you will receive other submissions more professional, but I hope you will still listen to the concerns I have outlined here. If per chance you have any questions, I welcome your emails and phone calls.

Thank you,

Brenda Barnes

Director of (Export) Customer Services