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BEFORE THE  
**FEDERAL MARITIME COMMISSION**

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Docket No. 16-04

Comments on Ocean Common Carrier and Marine Terminal Operator  
Agreements Subject to the Shipping Act of 1984

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Written Comments Submitted by  
Volkswagen Konzernlogistik GmbH & Co. OHG

Ashley W. Craig  
Elizabeth K. Lowe  
VENABLE LLP  
Counsel

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**I. Comments on Ocean Common Carrier and Marine Terminal Operator  
Agreements Subject to the Shipping Act of 1984**

*A. Introduction*

Volkswagen Konzernlogistik GmbH & Co. OHG (“VWKL”) hereby submits these Comments to the Federal Maritime Commission (“FMC” or “Commission”) in response to the publication of the Commission’s proposed rule in Docket No. 16-04 (“Proposed Rule”). VWKL strongly supports the adoption and timely implementation of the Proposed Rule, in particular, of the addition of an exemption to the waiting period for Space Charter Agreements.

VWKL is a German-based vessel operating common carrier (“VOCC”) (FMC Org. No. 025388) specializing in Roll On/Roll Off (“RO/RO”) automobile ocean transport. VWKL specializes in the movement of cars in the transatlantic trades primarily on behalf of VWKL’s parent companies, Volkswagen AG (“VW AG”) and Audi AG.

VWKL is a member of several Space Charter Agreement with other VOCCs in support of its ocean transportation services—all such agreements are on file with the FMC, as required. While some of VWKL’s Space Charter Agreements fall under the Low Market Threshold exemption, others do not, resulting in VWKL and its space charter partners having to wait 45-days prior to operating pursuant to the agreement or any amendment thereto.

**II. Support for Proposed Rule Creating a New Exemption for Space Charter Agreements in § 535.308**

By exempting Space Charter Agreements from the 45-day waiting period, the Commission will adopt appropriate recognition of current global supply chain commercial, operational and practical realities, and will act to remove unnecessary regulatory hurdles allowing VOCCs to use space more efficiently in a timely and practical manner.

*A. Proposed Rule Strikes a Needed Regulatory/Commercial Balance*

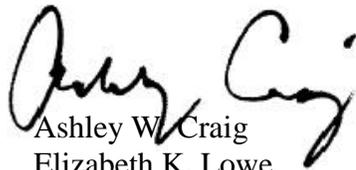
VWKL maintains that the Proposed Rule, as crafted, represents an equitable solution that protects the interests of the FMC to assess the competitive impact of certain agreements and the interests of VOCCs to access space in an efficient and practical manner. As explained in the Advanced Notice of Proposed Rulemaking, the proposed exemption will apply to non-exclusive space charter agreements between two VOCCs. This limitation of the exemption to non-exclusive agreements—meaning that the agreement contains no provisions that place conditions or restrictions on agreement participation and/or use or offering of competing services—reduces the likelihood that

such agreement will have a competitive impact, thereby eliminating the need for a 45-day review period. Further, as the Commission acknowledged, Space Charter Agreements involve more operational urgency. Allowing such agreements to become effective upon filing—and not be subject to the 45-day waiting period—recognizes the operational and practical needs of VOCCs to access space quickly and efficiently.

### **III. Conclusion**

VWKL encourages the FMC to adopt the Proposed Rule and remove the 45-day waiting period for Space Charter Agreements. The Proposed Rule will increase efficiency, afford greater flexibility and reduce administrative burdens, simply by adapting the Commission’s regulations to reflect the practical realities of modern shipping and logistics.

Respectfully Submitted,



Ashley W. Craig  
Elizabeth K. Lowe  
VENABLE LLP

Counsel to  
Volkswagen Konzernlogistik GmbH & Co. OHG