

CAPITOL OFFICE
1119 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
PHONE: (202) 225-6235
FAX: (202) 225-2202



COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE
SUBCOMMITTEE ON SOCIAL SECURITY

DISTRICT OFFICE
1910 SUNSET BOULEVARD., #560
LOS ANGELES, CA 90026
PHONE (213) 483-1425
FAX (213) 483-1429
www.house.gov/becerra
October 10, 2003

Congress of the United States
House of Representatives

XAVIER BECERRA
31 S-F DISTRICT, CALIFORNIA

RECEIVED
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FEDERAL MARITIME COMMISSION

Bryant L. VanBrakle, Secretary
Federal Maritime Commission
800 North Capitol Street, NW
Washington, DC 20573

RE: Petition P3-03

Dear Commissioners:

It is my understanding that United Parcel Service (UPS) has filed for an exemption from the prohibition on Non-Vessel Operating Common Carriers (NVOCCs) from entering into confidential contracts with their customers. Due to the operational characteristics of UPS and the evolution occurring within the ocean-shipping marketplace, I urge you to closely examine the UPS petition.

During consideration of the Ocean Shipping Reform Act (OSRA) revisions of 1998, Congress carefully considered all aspects of the ocean shipping industry, including the role of NVOCCs. Based on the **nature** of ocean shipping at the time, Congress determined that NVOCCs should be regulated differently than vessel operators. Since the passage of OSRA, the state of the U.S. ocean shipping industry has changed dramatically. There has been unprecedented consolidation among ocean carriers resulting in the loss of major U.S. flagged carriers. In an effort to offer customers a full range of services, these very same carriers have created vertically integrated logistics companies that now compete with NVOCCs.

UPS operates a sophisticated, integrated, intermodal transportation network, which includes air, rail and surface, and NVOCC transportation, and is deemed a "carrier" in the surface and airfreight industries. UPS also makes significant annual capital investments to its asset-based transportation infrastructure. These investments have benefited ocean-shipping consumers around the world.

In Section 16 of the OSRA, Congress granted the Federal Maritime Commission broad discretion to exempt parties from any requirement of the Act if the Commission finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce. In light of the evolution of the ocean-shipping marketplace, taking into account the legislative history surrounding the 1998 revisions of OSRA, and based on the discretion granted to you by Section 16 of that Act, I urge you to give the UPS petition your **thoughtful** consideration.

Sincerely,

XAVIER BECERRA
Member of Congress