

JEB HENSARLING
MEMBER OF CONGRESS
TEXAS, 5TH DISTRICT

COMMITTEES
BUDGET

FINANCIAL SERVICES



DISTRICT OFFICES
10675 EAST NORTHWEST HIGHWAY
SUITE 1685
DALLAS, TX 75238
(214) 349-9996

100 EAST CORSICANA STREET
SUITE 208
ATHENS, TX 75751
(903) 675-8288

Congress of the United States
House of Representatives

Washington, DC 20515

September 26, 2003

P3-03

RECEIVED
03 OCT -6 PM 3:48
FEDERAL MARITIME COMMISSION
SECRETARY

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

Dear Secretary VanBrakle:

I am contacting you in support of the United Parcel Service (UPS) petition currently pending before the FMC that would allow Non-Vessel Operating Common Carriers (NVOCCs) to enter into confidential agreements with their customers. Due to the operational characteristics of UPS, as well as recent developments within the ocean shipping marketplace, I believe the outdated regulatory scheme governing NVOCCs should be revised.

Congress determined in 1998, through revisions to the Ocean Shipping Reform Act (OSRA), that NVOCCs should be regulated differently than vessel operators. In the late 1990s, most NVOCCs were small enterprises that owned neither the ocean vessels nor the cargo being shipped. In order to protect shippers and to guarantee liability coverage, Congress determined that NVOCCs should operate under a published tariff system when dealing with their customers.

However, the state of the U.S. ocean shipping industry has changed dramatically since passage of OSRA. 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.

The transportation network of UPS includes an integrated air, rail, surface and NVOCC transportation system. In both the surface and air freight industries UPS is considered a "carrier". Furthermore, UPS makes significant annual capital investments to its' asset-based transportation infrastructure. These facts alone set UPS apart from the companies that first raised concerns about the regulatory status of NVOCCs.

The UPS petition, citing the recent evolution of the ocean shipping marketplace, is precisely the reason Congress granted such broad exemption authority to the FMC. While anticipating dramatic changes in the ocean shipping industry with the passage of OSRA, Congress did not contemplate how fast or how smoothly the market could adapt to these changes. By granting this petition, the FMC will acknowledge these changes, level the playing field between NVOCCs and vessel operators, and ultimately benefit ocean shipping consumers around the world.

I am hopeful that based upon the merits of the UPS case, the FMC will give the UPS petition full and fair consideration in a timely manner. If you have any additional questions please contact my staff member, Gerry O'Shea, at (202) 225-3484.

Yours respectfully,



JEB HENSARLING
Member of Congress