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ORIGINAL

W. TODD AKIN  
2D DISTRICT, MISSOURI

117 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-2561

301 SOVEREIGN COURT, SUITE 201  
ST. LOUIS, MO 63011  
(314) 590-0029

P.O. Box 519  
ST. CHARLES, MO 63302  
(636) 949-6826

Congress of the United States  
House of Representatives  
Washington, DC 20515

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E-Mail: rep.akin@mail.house.gov  
Website: http://www.house.gov/akin

September 17, 2003

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

Dear Mr. Secretary:

It is my understanding that the United Parcel Service (UPS) filed for an exemption from the condition that Non-Vessel Operating Common Carriers (NVOCCs) may not enter into confidential contracts with their customers. Due to the operational characteristics of UPS and recent developments within the ocean shipping marketplace, the regulatory scheme governing NVOCCs should be revised.

UPS operates a global, integrated, inter-modal transportation network, that includes air, rail, surface and NVOCC transportation. It is also deemed a "carrier" in the surface and air freight industries. Furthermore, UPS makes significant annual capital investments to its' asset-based transportation infrastructure.

During consideration of the 1998 revisions to the *Ocean Shipping Reform Act (OSRA)*, Congress carefully considered various 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. In the late 1990s, most NVOCCs were small enterprises that did not own ocean vessels or the cargo being shipped. To protect shippers and guarantee liability coverage, Congress determined that NVOCCs should operate under a published tariff system when dealing with their customers.

Since then, 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 several U.S. flagged carriers. In an effort to offer customers a full range of services, some ocean carriers have created vertically integrated logistics companies that now compete directly with NVOCCs.

While Congress anticipated some of the changes in the ocean shipping industry with the passage of OSRA, Congress did not contemplate how fast or smoothly the market could adapt to these changes. Consequently, Congress granted broad exemption authority to the Federal Maritime Commission.

By granting the UPS petition, the Commission will level the playing field between NVOCCs and vessel operators, and ultimately benefit ocean shipping consumers around the world.

I hope the Commission will give the UPS petition utmost consideration and render an equitable decision based on the merits of the case. Thank you for your attention in this important matter.

Sincerely,

A handwritten signature in black ink that reads "W. Todd Akin". The signature is written in a cursive, flowing style.

W. Todd Akin  
Member of Congress

117 Cannon House Office Building  
Washington, D.C. 20515  
Phone: 202.225.2561  
Fax: 202.225.2563

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**Congressman W. Todd Akin**

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To: <b>Secretary Bryant VanBrakle</b>	From: Congressman W. Todd Akin
Fax: 202.523.0014	Pages: 3
<b>Phone:</b> 202.523.5725	<b>Date:</b> 09/17/03
Re: United Parcel Service Exemption	Cc:

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Feel free to contact my Legislative Assistant, Lauren Ellis, at 202.225.2561 if you have any additional questions.

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