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TRANSPORTATION AND
INFRASTRUCTURE COMMITTEE
FINANCIAL SERVICES COMMITTEE
SCIENCE COMMITTEE

Congress of the United States

House of Representatives

Washington, DC 20515-4402

September 5, 2003

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U.S. SECRETARY
FEDERAL MARITIME COMM

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

RE: Petition P3-03

Dear Secretary VanBrakle:

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. I write in support of the UPS petition currently pending before the Federal Maritime Commission.

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 upon 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 neither owned ocean vessels nor the cargo being shipped. In order to protect shippers and guarantee liability coverage, Congress determined that NVOCCs should operate under a published tariff system when dealing with their customers.

However, the state of the United States' shipping industry has changed dramatically since passage of OSRA. There has been unprecedented consolidation among ocean carriers resulting in the loss of major United States 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, surface and NOVCC transportation, and is deemed a "carrier" in the surface and air freight industries. Furthermore, UPS makes significant annual capital investments to its asset-based transportation infrastructure. These facts set UPS apart from the companies that first raised concerns about the regulatory status of NVOCCs.

The UPS petition is precisely the reason Congress granted such broad exemption authority to the Federal Maritime Commission. While anticipating dramatic changes in the ocean shipping industry with the passage of OSRA, Congress did not contemplate how quickly or smoothly the market could adapt to these changes. By granting this petition, the Federal Maritime Commission will acknowledge these changes and level the playing field between NVOCCs and vessel operators.

Thank you for your consideration of this petition, and I look forward to receiving an update once the petition has been fully considered by the Federal Maritime Commission.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Matheson", with a long horizontal flourish extending to the right.

Jim Matheson
Member of Congress