

DAVID SCOTT  
13TH DISTRICT, GEORGIA

COMMITTEE ON AGRICULTURE

COMMITTEE ON FINANCIAL SERVICES

ORIGINAL

Congress of the United States  
House of Representatives  
Washington, DC 205154013

417 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-1013  
PHONE (202) 225-2939  
FAX (202) 225-4628

173 NORTH MAIN STREET  
JONESBORO, GA 30236  
PHONE (770) 210-5073  
FAX (770) 210-5673

www.house.gov/davidscott  
David.Scott@mail.house.gov

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September 15, 2003

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

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FEDERAL MARITIME COMMISSION

Dear Commissioners:

It has been brought to my attention that UPS has filed for an exemption from the prohibition on Non-Vessel Operating Common Carriers (NVOCCs) from entering into confidential contracts with their customers

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. 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 to guarantee liability coverage, Congress determined that NVOCCs should operate under a published tariff system when dealing with their customers.

It is my understanding that the U.S ocean shipping industry has changed dramatically since passage of OSRA. There has been consolidation among ocean carriers resulting in the loss of major U.S. flagged carriers. These remaining carriers have created vertically integrated logistics companies that now compete with NVOCCs. 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. Due to these recent developments within the ocean shipping marketplace, the regulatory scheme governing NVOCCs should be reviewed to adapt to the current business models.

I respectfully request that the Federal Maritime Commission carefully review UPS's petition according to established policies and procedures. Thank you for your consideration of this request and please keep me informed of the Commission's decision.

Sincerely,

David Scott  
Member of Congress

DS:ma