



CONGRESS OF THE UNITED STATES ORIGINAL

September 24, 2003

SECRETARY
FEDERAL MARITIME COMMISSION

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

Dear Bryant:

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 recent developments within the ocean shipping marketplace, UPS is seeking revision of the antiquated regulatory scheme governing NVOCCs.

During consideration of the Ocean Shipping Reform Act (OSRA) revisions of 1998, Congress 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.

However, the US ocean shipping industry has changed dramatically since passage of OSRA. There has been significant 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, including air, rail, surface and NVOCC transportation, and is deemed a "carrier" in the surface and air

**Congressman
Christopher Shays
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freight industries. 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.

It seems to me the UPS petition, citing evolution of the ocean shipping marketplace, is the reason Congress granted such broad exemption authority to the Federal Maritime Commission. While anticipating changes in the ocean shipping industry under 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 urge the FMC to give the UPS petition its utmost consideration and render an equitable decision based upon the merits of the UPS case.

Sincerely,



Christopher Shays
Member of Congress

CS:mpm