

SPENCERBACHUS
6TH DISTRICT, ALABAMA

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Congress of the United States

House of Representatives
Washington, DC

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September 22, 2003

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

RE: Petition P3-03

Dear Commissioners:

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, the antiquated regulatory **scheme** governing NVOCCs should be revised. I write in strong support of the UPS petition currently pending before the 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 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 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.

UPS operates the most sophisticated, integrated, intermodal transportation network in the world, which includes air, rail and surface and NVOCC 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 alone set UPS apart from the companies that first raised concerns about the regulatory status of NVOCCs.

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The UPS petition, citing the recent evolution of the ocean shipping marketplace, is precisely the reason Congress granted such broad exemption authority to the Federal Maritime Commission (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 shopping consumers around the world.

I am **hopeful** the FMC will give the UPS petition its' utmost consideration and render an equitable decision based upon the merits of the UPS case.

Sincerely,

A handwritten signature in black ink, appearing to read "Spencer Bachus". The signature is fluid and cursive, with a large initial "S" and "B".

Spencer Bachus
Member of Congress

STB:bk

SPENCER T. BACHUS, III
6TH DISTRICT, ALABAMA

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OFFICE OF THE SECRETARY
FEDERAL MARITIME COMMISSION

FACSIMILE TRANSMITTAL SHEET

Date: 9/22/03

TO: Bryant Van Brakle

FAX NUMBER: 202/523-0014

FROM: Congressman Spencer Bachus

We are transmitting 3 pages including this cover sheet. If this transmittal is incomplete, please call us at (205) 969-2296.

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