

(By email and fax)

7th December, 2016.

Ms. Rose Webb
Chief Executive Officer
Competition Commission (Hong Kong)
Room 3601, 36/F, Wu Chung House
213 Queen's Road East
Wanchai
Hong Kong

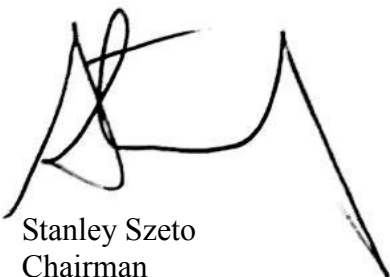
Dear Ms. Webb,

Proposed Block Exemption Order for Certain Liner Shipping Agreement

Pertaining to the Commission's proposed block exemption order in respect of certain liner shipping agreements published on 14 September 2016, The Textile Council of Hong Kong would like to submit the attached representation for consideration.

Thank you for your attention.

Yours faithfully,



Stanley Szeto
Chairman

Encl.

Textile Council of Hong Kong
VSAs/VDAs Attachment

VSAs

- a. *Whether VSAs give rise to the efficiencies mentioned in the Statement of Preliminary Views (Statement”) (see paragraphs 4.13 to 4.41 of the Statement).*

The Council considers that many of the claimed efficiencies would remain potentials only and may not materialize. For example, there is no reason why a line would offer service to a new market only because its alliance partners' vessels are calling over there. New market development requires huge investment and commitment, and schedule coverage would not be a sufficient reason for such investment.

In addition, VSAs may not result in more frequencies and capacity. Instead, VSAs essentially entail capacity management, and tend to have the effect of reducing frequencies and capacity.

It is also important to note that VSAs have the effect of driving out small non-alliance carriers. The overwhelming majority of shipping lines bankrupted in the past 10 years are non-alliance member lines: Lykes Lines in Oct 1995; Cho yang in May 2001; Kien Hung in May 2004; Shandong Yantai in Aug 2008; Dongnama Shipping in Oct 2008; Grand China Shipping in Apr 2013, etc. Perhaps the only exception is Hanjin Shipping which is now under receivership. Hanjin Shipping is a member of the CKYHE Alliance.

The Hanjin Shipping case demonstrates clearly that alliance may not contribute to market stability. Alliance partners and their clients would suffer from bad management/business decisions of an alliance member and hence sufferings spread. Clients of Hanjin's alliance partners, which share slots, suffered substantially from arrest, refusal of port entry and handling, and schedule disruption of Hanjin ships. Alliances reduce shippers' freedom of choice of carrier as shippers cannot avoid using vessels of the lines' alliance partners.

- b. *Whether customers receive a fair share of these efficiencies (see paragraphs 4.42 to 4.56 of the statement)*

It is arguable whether more frequencies really benefit liner's customers. Maersk introduced "Daily Maersk" service in 2015 – a daily service for shippers that failed totally. The majority of Hong Kong shippers would book for vessels calling at or right before the week end because of production schedule. The berthing slots naturally form bottlenecks and limit the number of sailings during this period. The benefits of more frequencies in many cases are merely theoretical.

The Commission's argument that only when lines are subject to sufficient competition that lines are incentivized to pass on any cost savings to their customers is correct. Therefore, it is absolutely necessary to set a cap of market share for each alliance. The 40% cap, which may go up to 45% as allowed for two consecutive years, could be too high already.

With alliance, shippers may be facing a "standard" service in routing, port calls, terminal operators, depots, container leasing and other service providers offered by different alliance members. Shipping lines by the fact that they offer the same services, tend not to compete through services differentiation.

- c. *Whether any restrictions on competition arising from VSAs are indispensable to achieve the relevant efficiencies (see paragraphs 4.57 to 4.63 of the statement)*

It is fair to say that the more restrictive the terms of being an alliance members, and the more integrated operations of the alliance, the more harmful would the alliance be to competition.

- d. *Whether VSAs allow parties to such agreements the possibility to eliminate competition (see paragraphs 4.64 to 4.68 of the Statement)*

It is necessary to limit the market share of each alliance. The greater the market share, the greater potential an alliance could harm competition. Moreover, the possibility of alliance members colluding over commercial matters is valid. Shipping lines under VSAs would meet and discuss things regularly. There is impossible for outside parties to know whether commercial matters including pricing and market manipulation, etc. have been discussed. Therefore, unless a policing system, and compliance/enforcement mechanism is in place, shippers do not consider sufficient protection is given.

- e. *Whether assuming the Commission is satisfied that the relevant activities of VSAs meet the terms of the efficiency exclusion, the Commission should exercise its power under section 15 of the Ordinance to issue a block exemption order for VSAs.*

We agree that considering the competition regime for Hong Kong, it is appropriate to bring into consideration the competition regimes and practices of Hong Kong's major trading partners. In addition, we also see benefits for a well-defined scheme of control which is going to allow greater clarity and certainly for both shipping lines and users. In that sense, we consider that it is appropriate for the Commission to clearly lay down its requirements in block exemption order.

VDA's

- f. *Whether VDAs give rise to the efficiencies put forward by the Applicant (see paragraphs 4.77 to 4.118 of the statement)*

We agree with the Commission's analysis that there is no justification for the efficiencies claimed by the liners.

- g. In the event that the response to issue 6. is in the affirmative, whether VDAs would meet the other three conditions of the efficiency exclusion (see paragraphs 4.119 to 2.125 of the statement)*

As there is no efficiencies from VDAs, the other three conditions of the efficiency exclusion are irrelevant.

Proposed Order

- h. The terms of the Proposed Order, including the scope of the agreements which will benefit from the Proposed Order and the conditions which must be fulfilled to benefit from the Proposed Order (see the Proposed Order and Part 5 of the Statement)*

We agree to a periodical review. Five years seem to be a reasonable arrangement.

Proposed Transitional Arrangements

- i. The proposed transitional arrangements in respect of VDAs and any VSAs which do not benefit from the Proposed Order (see Part 6 of the Statement)*

Six-month transitional arrangements should be sufficient.

December 2016