



Hong Kong Container Terminal
Operators Association Limited
香港貨櫃碼頭商會有限公司

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Ms Anna Wu
Chairperson, Competition Commission
Room 3601, 36/F, Wu Chung House
213 Queen's Road East
Wanchai, Hong Kong

Dear Ms Wu,

Commission consultation regarding block exemption order application in relation to certain liner shipping agreements (BE/0004)

We write in support of the Vessel Sharing Agreements (VSAs) and in principle, the Voluntary Discussion Agreements (VDAs) subject to the understanding set out below, as in such a case, they are complementary and support each other's functions.

We understand that VDAs allow for carrier discussions on market and industry trends and data, while VSAs allow for the sharing of vessels to provide the most efficient possible service to shippers. Both types of agreement have been present in Hong Kong for decades, and both are permitted by most of Hong Kong's major trading partners.

While the proposed VDAs arrangement allows carriers to discuss on market and industry trends and data generally, it is understood that such discussions or sharing of information do not affect in any way each individual liner's confidentiality obligations owed to their business partners or service providers, including terminal operators, under contracts. For the avoidance of doubt, under the proposed VSA exemption, and irrespective of whether the VDAs are to be included in the block exemption order, the Proposed Order will not entitle individual shipping lines to share any confidential information contained in contracts they have with any parties (whether with members of the same association, consortium or alliance).

Exempting both VDAs and VSAs in the circumstance will facilitate the maintenance of the competitiveness of Hong Kong as an international maritime centre. Nowadays, transshipment accounts for some 70% of container movements in Hong Kong and it is essential to have a block exemption for both VSAs and VDAs to maintain the *status quo* and encourage continued use of Hong Kong as a transshipment hub.

On the other hand, if no block exemption for VDAs were to be so granted, Hong Kong's regulatory regime would be at odds with its regional competitors. This puts Hong Kong seriously at risk of losing business to other regional ports. Further, it is also at odds with Hong Kong's major trading partners in the Pacific. The lack of a VDA exemption would lead to an imbalance, with a practice being legal at one end of the route but illegal at the other end. Any change to the current situation, where the practice is legal at both ends of most major routes in the Pacific, cannot be decided unilaterally without



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undermining the competitive position of the Hong Kong ports. This would prompt carriers serving Hong Kong to individually re-evaluate their current commitment to Hong Kong. If carriers exclude Hong Kong from their network, it could potentially lead to reductions in service options. This could negatively impact the maritime and port industry, which contributes 1.4% of Hong Kong's GDP and 2.5% of total employment, in absolute terms 93,000 jobs, and the Hong Kong economy as a whole.

Hong Kong has already been facing a number of challenges to maintain its competitiveness as an international maritime centre and a regional transshipment hub. We hope the Commission will recognise the importance to keep Hong Kong on the same level playing field as its trading partners in this aspect.

Yours sincerely
For and on behalf of
Hong Kong Container Terminal Operators Association

Jessie Chung
Chairman