



THE HONG KONG SHIOPWNERS ASSOCIATION LTD.

12th Floor, Queen's Centre, 58 Queen's Road East, Wanchai, Hong Kong

Phone : (852) 2520-0206 Fax : (852) 2529-8246 Email : hksoa@hksoa.org

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Submission on Review of the Competition (Block Exemption for Vessel Sharing Agreements) Order 2017 (as varied)

The Hong Kong Shipowners Association (HKSOA) appreciates the opportunity to contribute to the Commission's second review of the Block Exemption Order (BEO) for vessel sharing agreements (VSAs). **The BEO is working well and should be renewed**, as the economic efficiencies and consumer benefits from VSAs in Hong Kong fully justify its continuation.

The HKSOA would like to offer the following responses to the questions raised by the HKCC in its consultation document.

Market developments

- Major developments in the liner shipping industry.** The liner shipping industry has recovered from the pandemic disruptions and returned to normal operations. VSAs continue to promote healthy competition. There have been no changes in the basic structure or operations of VSAs since the last renewal.
- Impact of global developments.** At the time of the last BEO renewal, the industry was significantly affected by the pandemic. Since then, the industry has recovered, and the disruptive effects of the pandemic have subsided. However, today's geopolitical tensions and supply chain uncertainties make the stability provided by VSAs more crucial than ever. Coordinated vessel deployment, made possible specifically through VSA frameworks, allows the industry to maintain service reliability and route coverage, demonstrating how VSAs enhance operational resilience during periods of heightened geopolitical uncertainty.
- Other notable developments.** There have been no developments that negatively impact the effectiveness or appropriateness of VSAs under the current Order.
- Impact on small- and medium-sized carriers.** VSAs continue to provide smaller carriers with access to routes and operational efficiencies they would not be able to achieve independently. This helps maintain a competitive balance in the market.

Market share limit

5. **Changes in the market.** While some jurisdictions maintain market share thresholds for liner shipping exemptions, the trend among major shipping hubs is toward more flexible arrangements. The removal of market share caps would align Hong Kong more closely with jurisdictions that have recently eliminated such restrictions, including the EU and the UK, following their decisions not to renew consortia block exemptions with market share limitations.
6. **Intra-regional trade.** Given the highly competitive nature of the liner shipping sector in Hong Kong, the HKCC should consider removing the market share cap in the BEO to place Hong Kong on a level playing field with its competing neighbouring ports.

Competition concerns and efficiencies

7. **Competition concerns.** There are no competition concerns associated with VSAs. They maintain service variety, operate without anti-competitive capacity restrictions, and do not involve inappropriate sharing of competitively sensitive information.
8. **Economic efficiencies and consumer benefits.** VSAs are crucial for facilitating the Government's sustainability goals, such as establishing Hong Kong as a green maritime centre. VSAs ensure more efficient use of shipping and port capacity, allowing the same demand to be served more effectively, which reduces congestion and emissions.

The role of VSAs in maintaining Hong Kong's port connectivity deserves particular emphasis. While the overall number of ocean vessel calls has declined as large deep-sea vessels have been diverted to other regional ports—a development driven largely by cross-border trucking inefficiencies during the COVID-19 pandemic—the port has maintained resilience through service diversification. VSAs have enabled the industry to adapt by facilitating a more distributed network of vessel deployments serving an expanded range of origins and destinations. This demonstrates the operational flexibility that VSAs provide. Rather than simply promoting the use of larger vessels, VSAs enable carriers to optimise vessel deployment based on actual market conditions and infrastructure constraints. The ability of VSAs to support this adaptive vessel deployment strategy—maintaining diverse route coverage despite changes in vessel size profiles—underscores their continued relevance to Hong Kong's maritime competitiveness and its status as a regional maritime hub.

Regulatory developments in other jurisdictions

9. **Expiry of Consortia Block Exemption Regulations.** While the EU and UK allowed their consortia exemptions to expire on 25 April 2024, the European Commission has indicated that liner shipping vessel sharing agreements may be assessed under general EU competition law frameworks, including the Horizontal Block Exemption Regulation and Specialisation Block Exemption Regulation. However, industry stakeholders have noted that these general frameworks were not designed to address the specific operational characteristics of liner shipping and may not provide the same level of legal certainty as sector-specific block exemptions. The transition from dedicated sector-specific regulation to general competition law frameworks has created a different regulatory environment in Europe compared to the prior exemption regime.

Regional standards in Asia, in contrast, continue to support dedicated block exemptions for liner shipping. Singapore renewed its block exemption order for a period of five years in October 2024. Many other Asian jurisdictions continue to operate under competition exemptions or sector-specific legislation that recognise the unique operational requirements of international liner shipping.

Critically, if the HKCC were not to renew the BEO, Hong Kong would face a regulatory vacuum with neither sector-specific exemptions nor the comprehensive alternative frameworks available in Europe. This would create significant legal uncertainty for carriers operating through Hong Kong and place Hong Kong at a distinct competitive disadvantage compared to both European markets (which have alternative frameworks) and other jurisdictions (which maintain dedicated block exemptions).

10. **Relevance of non-renewal of Consortia Block Exemption Regulations.** Failing to renew the BEO would put Hong Kong at a competitive disadvantage to other shipping hubs, particularly within Asia.

Effectiveness of the Order

11. **Merit and effectiveness of the Order.** Legal certainty is crucial for providing the global supply chain with the stability and flexibility it requires. All stakeholders need to know that regulatory frameworks are stable and functioning effectively. In today's uncertain geopolitical environment, this regulatory stability is more important than ever for maintaining Hong Kong's status as a reliable maritime hub.

12. Material changes in VSAs. There have been no material changes in the forms or terms of VSAs since the 2022 variation.

Conclusion

The Block Exemption Order continues to deliver clear economic efficiencies, consumer benefits and support for Hong Kong's sustainability objectives. In an era marked by global supply chain uncertainty and geopolitical tensions, maintaining this regulatory framework is essential for the stability required by the shipping sector, in the interest of the international community.

We strongly recommend that the Commission renew the BEO and remove the market share cap to align Hong Kong with international best practices. This would strengthen our competitive position as an "international finance, shipping and trade centre" as set out in the national strategic plan.