

14 September 2016

Notice issued under section 16 of the Competition Ordinance of a proposed block exemption order for certain liner shipping agreements

The Competition Commission (“**Commission**”) today published a proposed block exemption order (“**Proposed Order**”) for a number of specific activities carried out by parties to vessel sharing agreements (“**VSAs**”).

The publication of the Proposed Order follows the Commission’s consideration of an application for a block exemption order (“**Application**”) in respect of VSAs and voluntary discussion agreements (“**VDAs**”) submitted by the Hong Kong Liner Shipping Association (“**Applicant**”) under section 15 of the Competition Ordinance (Cap. 619) (“**Ordinance**”).

The text of the Proposed Order, together with a Statement of Preliminary Views setting out the Commission’s preliminary conclusions in relation to the Application, are available in English and Chinese on the website of the Commission (www.compcomm.hk).

In accordance with section 16 of the Ordinance, the Commission is required to publish notice of the Proposed Order and to consider any representations that are made to it about the Proposed Order.

By the present notice, the Commission is therefore calling for representations from interested parties (including the Applicant) about the Proposed Order and/or the Commission’s provisional position on the Application as detailed in the Statement of Preliminary Views.

Representations from interested parties

The Commission welcomes substantive information or evidence relevant to its assessment of whether VSAs meet the four conditions of the exclusion for agreements enhancing overall economic efficiency in section 1 of Schedule 1 to the Ordinance (“**efficiency exclusion**”) (and may thus be eligible for a block exemption order).

The Commission has, for example, identified in the Statement of Preliminary Views certain further information regarding the efficiencies associated with VSAs which would assist the Commission in reaching a final decision as to whether VSAs meet the terms of the efficiency exclusion.

While the Commission is not proposing a block exemption order for VDAs, the Commission welcomes representations from parties on this aspect of its proposed decision on the Application.

A list of specific issues which parties may wish to address in their representations to the Commission is provided for reference in the Annex to this notice. This list is not intended to be exhaustive and parties are free to address other matters which they believe to be relevant to the Proposed Order and/or the Commission's assessment of the Application.

On the basis of the representations received from interested parties and the Commission's provisional position on the Application, the Commission will make a final decision on the Application and whether or not to issue a block exemption order under section 15 of the Ordinance.

Method of making representations

Interested persons are invited to make representations to the Commission by **18:00 on 14 December 2016**. The Commission requests that representations be made in writing.

Representations should, preferably, be sent by email to consultation@compcomm.hk, with the case reference number BE/0004 quoted in the subject line of the email.

Representations may also be sent by fax or by post as follows:

By Fax: +852 2522 4997

By Post: Representations on Case BE/0004
Competition Commission
Room 3601, 36/F Wu Chung House



213 Queen's Road East, Wanchai

Hong Kong

Representations received will be posted on the website of the Commission. If a representation contains confidential information, a non-confidential version of the representation should be provided to the Commission for the purpose of uploading to the Commission's website.

ANNEX

Issues which parties may wish to address in representations to the Commission

*VSA*s

1. 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).
2. Whether customers receive a fair share of these efficiencies (see paragraphs 4.42 to 4.56 of the Statement).
3. 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).
4. Whether VSAs allow parties to such agreements the possibility to eliminate competition (see paragraphs 4.64 to 4.68 of the Statement).
5. 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.

*VDA*s

6. Whether VDAs give rise to the efficiencies put forward by the Applicant (see paragraphs 4.77 to 4.118 of the Statement).
7. 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 4.125 of the Statement).

Proposed Order

8. 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).

Proposed transitional arrangements

9. 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).