Hong Kong Liner Shipping Association

Application for a Block Exemption Order under Section 15 of the Competition Ordinance

NON-CONFIDENTIAL SUMMARY

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17 December 2015

This submission concerns an application by the Hong Kong Liner Shipping Association, on behalf of carriers operating through Hong Kong, for a block exemption order for liner shipping agreements (“**Liner Agreements**”) pursuant to Section 15 Competition Ordinance.

Liner Agreements are made between two or more vessel-operating carriers to co-operate in the provision of liner shipping services in respect of one or more of the following: (i) technical, operational or commercial agreements; (ii) price; and (iii) remuneration terms.

Liner Agreements generally fall into two categories: (i) voluntary discussion agreements (“**VDAs**”); and (ii) vessel sharing agreements (“**VSAs**”).

VDAs are commercial agreements between carriers whereby parties exchange and review market data and trade flows, supply/demand forecasts and business trends to better inform business decisions. They may discuss, develop and agree to recommend voluntary guidelines for rates, charges, service contract or tariff terms and other similar commercial issues. Contracts with shippers are then negotiated and agreed by individual carriers (not the VDA), who may or may not follow the VDA’s guidelines. VDAs bring about: rate stability; service stability; and rate and surcharge transparency, all of which represent efficiencies that benefit customers (and ultimately the wider Hong Kong economy) by enabling better planning and budgeting of long-term shipping costs.

VSAs are operational agreements between carriers whereby parties discuss and agree on technical and operational arrangements relating to the provision of liner shipping services, including the coordination or joint operation of vessel services, and the exchange or charter of vessel space. They are often compared to airline code-sharing agreements. VSAs bring about: increased quality of service (connectivity and frequency); cost efficiencies; decreased costs of entry and expansion; increased efficiencies in utilising port capacity; and environmental benefits. Thus, customers receive more service options and greater carrier choice in the ocean transportation of goods.

VDAs and VSAs are complementary. Both types of discussions are necessary to achieve the efficiencies identified. It is widely agreed that the liner shipping industry is characterised by unusually high fixed and operating costs. However, the nature of liner shipping requires a vessel to sail a particular route whether or not it is full. As such, VDAs and VSAs are crucial in enabling carriers to provide regular, fixed day sailing schedules at rates that are not subject to severe fluctuation. They are therefore necessary for the proper functioning of the industry.

The liner shipping industry is highly competitive. Even where carriers are party to the same Liner Agreements, cooperation is limited such that there remains every incentive for carriers to compete with one another. Competition is intense with significant competitive constraints from considerable buyer power, low barriers to entry, and a wide and fragmented market on each of the major trades.

Block exemptions for VDAs and VSAs exist across Pacific Rim jurisdictions. Singapore recently extended its block exemption until 2020, based on legal standards similar to the Competition Ordinance.

Agreements play a critical role in enabling trade and are a key driver behind Hong Kong’s status as a leading port and international maritime centre.