



15 December 2023

Competition and Markets Authority
The Cabot
25 Cabot Square
London E14 4QZ

By email only: cberreview@cma.gov.uk

Response to the Liner Shipping Consortia Block Exemption Regulation Provisional Decision

Dear Sir or Madam,

FIATA, the International Federation of Freight Forwarders Associations, writes in response to the UK Competition and Markets Authority's ("CMA") provisional decision in relation to the retained Liner Shipping Consortia Block Exemption Regulation ("**Retained CBER**") dated 17 November 2023 ("**Provisional Decision**"). FIATA thanks the CMA for its comprehensive review of the Retained CBER and wishes to express its support toward the findings in the CMA's Provisional Decision, including the provisional conclusion to not recommend replacement of the Retained CBER when it expires on 25 April 2024.

Founded in 1926, FIATA is the world's oldest and widest representation of the freight forwarding and logistics industry with more than 40,000 members from 155 countries, including the British International Freight Association ("**BIFA**"), which has also submitted its comments to this consultation. FIATA represents a wide range of supply chain actors including customs brokers, warehouses, trucking, rail, maritime and air cargo aggregators and non-vessel operating common carriers ("**NVOCCs**").

FIATA comments in support of the CMA's Provisional Decision

FIATA supports the comments of BIFA, its Association Member in the UK, dated 7 December 2023, which underline the importance of considering the impact of consortia on a case-by-case basis, and which support the CMA's provisional finding that efficiencies produced under consortia covered by the Retained CBER do not appear to outweigh their potential impact on competition.

In 2022, the FIATA Extended Board passed a resolution at the 59th FIATA World Congress, Busan, calling for reform of the competition regulations governing the shipping industry at a global level. FIATA has consistently advocated that a fair competitive regime is imperative to preserve the global competitiveness of small and medium-sized enterprises ("**SMEs**") and shippers around the world, and that such regulations should be clear, targeted and fit-for purpose.

As per the CMA's provisional finding, FIATA is of the view that broader market developments render it more appropriate to consider the impact of consortia on a case-by-case basis in their actual market context given the individual circumstances of the particular consortia, rather than providing for an automatic exemption. Comprehensive surveys conducted by FIATA amongst its global membership have demonstrated fundamental changes in the market environment which have meant that consortia block exemption regulations no longer serve their intended purpose of promoting efficiency and optimization of the maritime supply chain. In the evolved market context, such consortia block

[FIATA International Federation of Freight Forwarders Associations](https://www.fiata.org)

Rue Kléberg 6 | 1201 Geneva | Switzerland

T +41 22 715 45 45 | info@fiata.org | www.fiata.org



exemption regulations have resulted in loss of connectivity and rate increases, with the possibility to rapidly reposition capacity in response to market demand and favourable rates. The effect of such capacity repositioning has been felt with equal rapidity by consumers and shippers in Europe and across the world, who have suffered due to lack of connectivity, high freight rates that resulted in 1.5% global inflation as per UNCTAD statistics, and schedule unreliability.

In addition, as observed by the CMA, the diversification of activities by shipping lines into other parts of the logistics market create significant risks for competition under the application of consortia block exemption. The broad exemptions granted to shipping lines under such regulations provide the possibility to use such exemptions in areas outside of the port-to-port activities for which these exemptions were designed, such as cargo handling, logistics and ancillary services, thus competing unfairly with other supply chain actors who do not have the benefit of such exemptions. This therefore demonstrates how shipping lines are becoming increasingly distinctive entities, requiring case-by-case analysis rather than being treated in 'block' for competition purposes.

Additional recommendations

Given the global nature of the liner shipping industry, FIATA takes this opportunity to encourage the CMA to foster greater coordination with other regulators in all world regions to ensure homogeneity and a wider monitoring of competition in liner shipping. Over the past few years, FIATA has sought to initiate dialogue amongst all industry stakeholders at the governmental and private sector levels to understand the issues at stake and facilitate a coordinated approach to finding and implementing solutions. FIATA encourages the CMA to consider a mechanism for formal and consistent discussions and collaboration on a global level, noting that competition in the supply chains impact many different stakeholders in the supply chain.

In summary, FIATA supports the CMA's Provisional Decision, and considers that the replacement of the Retained CBER with a Liner Shipping Consortia Block Exemption Order ("**UK CBEO**") would be more agile and fit-for-purpose to address the evolved market context.

FIATA thanks the CMA for the opportunity to submit the comments contained herein, and remains available to the CMA to provide its expertise as necessary.

Yours faithfully,

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Andrea Tang

International Trade Lawyer, Head of International Trade and Law
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