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Congress of the United States

House of Representatives

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OFFICE OF THE SECRETARY
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September 19, 2003

Bryant L. VanBrakle
Secretary
Federal Maritime Commission
800 North Capitol Street, NW
Washington, DC 20573

Dear Commissioners:

I understand that UPS has filed a petition for an exemption from the prohibition on Non-Vessel Operating Common Carriers (NVOCCs) from entering into confidential contracts with their customers. I am writing to encourage you review this petition. My understanding is from the US Coast Guard that this poses no breach in security.

During consideration of the *Ocean Shipping Reform Act (OSRA)* revisions of 1998, Congress carefully considered all aspects of the ocean shipping industry including the role of NVOCCs. Based on the nature of ocean shipping at the time, Congress determined that NVOCCs should be regulated differently than vessel operators. In the late 1990s, most NVOCCs were small enterprises that neither owned ocean vessels nor the cargo being shipped. In order to protect shippers and to guarantee liability coverage, Congress determined that NVOCCs should operate under a published tariff system when dealing with their customers.

However, the state of the U.S ocean shipping industry has changed dramatically since passage of **OSRA**. There has been unprecedented consolidation among ocean carriers resulting in the loss of major U.S. flagged carriers. In an effort to offer customers a full range of services, these very same carriers have created vertically integrated logistics companies that now compete with Nvoccs.

UPS operates the most sophisticated, integrated, intermodal. transportation **network** in the world, which includes air, rail and surface and NVOCC transportation, and is, deemed a "carrier" in the surface and air freight industries. Furthermore, UPS makes significant annual **capital** investments to its' asset-based **transportation** infrastructure. These facts alone set UPS apart **from** the companies that first raised concerns about the regulatory status of NVOCCs.

The UPS petition, citing the recent evolution of the ocean shipping marketplace, is precisely the reason Congress granted such broad exemption authority to the FMC. While anticipating dramatic changes in the ocean shipping industry with the passage of OSRA, Congress did not contemplate how fast or how smoothly the market could adapt to these changes. By granting this petition, the FMC will acknowledge these changes, level the playing field between NVOCCs and vessel operators, and ultimately benefit ocean shipping consumers around the world.

I am hopeful the FMC will give the UPS petition its consideration and render an equitable decision based upon the merits of the UPS case.

Sincerely,

A handwritten signature in black ink, appearing to read "Earl Blumenauer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Earl Blumenauer
Member of Congress