



Position of the European Sea Ports Organisation (ESPO) regarding the ongoing evaluation of the Consortia Block Exemption Regulation (CBER)

11 July 2023

The European Commission is currently in the process of evaluating the Consortia Block Exemption Regulation (hereafter “Consortia Regulation”), the only sectoral exemption under EU competition regulations, which is due to expire on 25 April 2024. In light of this evaluation, the European Sea Ports Organisation (ESPO) calls upon the Commission to carry out its important task of **ensuring a European legislative framework that safeguards and allows for fair competition and a level playing field in the maritime and logistics sector.**

Last years’ practices have shown that the original objectives as stipulated by the Consortia Regulation are not being met. Consortia agreements were originally set up for shipping companies to optimise the utilisation of vessels and to reduce costs through economies of scale, with the aim of passing on these benefits further down the chain and contributing to a healthy, competitive and diversified sector.

Yet, it has become apparent that under the current conditions of the Consortia Regulation the benefits have not always been fairly shared. The sector has seen a sharp decrease in reliability of many maritime services on top of massive rise in service costs, causing some large distributors to attempt to set up and organise their own maritime services and in some cases even induce a modal shift to alternative transport modes.

In parallel, ESPO would like to draw the Commission’s attention to the new development whereby shipping lines are pursuing their expansion plans into the hinterland and are, consequently, acquiring an increasingly dominant position in the logistics and supply chain. Such vertical integration, fuelled by the current market conditions and advantageous fiscal climate for shipping lines combined with their already very strong market position due to the past and ongoing concentrations in the sector, might further undermine a fair power balance and level playing field in the sector.

These developments call for a thorough reconsideration of the European legislative framework. **ESPO calls upon the Commission to not only reconsider the consortia agreements between shipping lines, but also to critically assess the vertical integration of shipping lines and its impact on the level playing field in the sector.**

In particular, the future European legislative framework should:

1. Ensure **fair competition and a level playing field** in the maritime and logistics sector, allowing the benefits of consortia agreements to be shared by all, end-consumers and stakeholders in the logistics chain alike;
2. Ensure **a better regulation of all consortia agreements** – those currently operating under the Consortia Regulation and those currently outside of it – instead of exempting consortia from regular EU competition rules. Effective and targeted regulation should allow for an optimal functioning of the market, while avoiding an overregulation of the sector;
3. Empower the Commission to **effectively monitor** the impact of consortia agreements on the entire logistics chain, with a specific focus on data sharing between the shipping lines. The current self-assessment system of Europe's antitrust policy has proven unfit for ensuring compliance in the maritime shipping sector. The Commission should set up a trustworthy body equipped with effective tools to monitor the market very closely, create more transparency on the current state of alliances, properly evaluate consortia agreements between major shipping lines, intervene when required, and follow up and report on new developments.
4. Empower the Commission to **effectively monitor** the vertical integration activities of shipping lines and their compliance with fair market conditions in view of the ongoing concentration in the liner shipping market, as well as **to intervene** when required to **ensure a fair power balance and level playing field between the shipping lines and other logistic operators**.
5. Ensure that the pressure from the shipping lines on the port's infrastructure charges and investment policies is not becoming excessive due to an ever-higher degree of concentration in the horizontal and vertical direction. European ports believe it is extremely important for shipping lines to **consult in good time with the port managing bodies** to establish functioning supply chains and to avoid a mismatch between investments made in the port and the needs of shipping lines in order not to risk stranded assets.
6. Recognise the needs of small operators, for whom a smooth procedure to conclude consortia agreements should remain, in order to optimise the utilisation of vessels and reach economic efficiency, hence enabling them to effectively compete with the established large liners.