TO
European Commission
Directorate-General for Competition
Reference HT.3754
Unit COMP/F1, Office MADO 9/62
B-1049 Brussels

HT. 3754 - Review of the Consortia BER

SUBMISSION OF THE ASIAN SHIPOWNERS’ FORUM COMMENTS ON THE DRAFT COMMISSION REGULATION AMENDING REGULATION (EC) No 906/2009 ON LINER SHIPPING CONSORTIA AS REGARDS ITS PERIOD OF APPLICATION

The Asian Shipowners’ Forum (“ASF”) appreciates the opportunity to submit comments, in response to the European Commission’s invitation, on the draft Commission Regulation amending Regulation (EC) No 906/2009 on liner shipping consortia as regards its period of application. The ASF highly welcomes, in line with the contents of the joint statement from the World Shipping Council, the European Community Shipowners’ Associations and the International Chamber of Shipping, the Commission’s proposal to continue to exempt consortia under the existing legal framework for an additional five-year period until 25 April 2020.

The ASF is an organisation of the national shipowners’ associations of Australia, China, Chinese Taipei, Hong Kong, India, Japan, Korea and the Federation of ASEAN Shipowners’ Associations comprising Brunei, Indonesia, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. The ASF membership together is estimated to control about 50% of the world merchant fleet today. The role of the ASF is to represent the interests of the Asian shipping industry and express its views on key issues affecting this industry.
Since its introduction, the consortia BER has given clear, practical and efficient guidance for consortia agreements to the shipping industry. Especially after the Commission substantially amended and simplified the Regulation at the last review in 2009, removing outdated provisions and clarifying important practical issues, the Regulation has become an unambiguous and understandable tool. With that useful legal certainty provided by the consortia BER, shipping lines are able to form consortia without unnecessary compliance costs.

As widely acknowledged, liner shipping consortia contribute to the provision of stable services with sufficient frequencies and capacities, which would be unable to be delivered by a single liner company. For shipping lines, this contribution by consortia is essential to maintain a quality service in the recent market situation with rising fuel bunker prices and stagnant freight rates. As might be expected, a liner service with sufficient quality and quantity based on a consortia mechanism is beneficial to not only carriers themselves but also their customers.

Also, with the legal risk minimisation facilitated by the clear guidance of the consortia BER, carriers are allowed to join, amend and leave consortia purely from an economical point of view, not a legal risk avoidance one, when they analyse and examine consortia. This will lead to the continuous improvement of consortia, with formations of consortia being more flexible, more efficient and more responsive to the volatile liner shipping market.

As stated above, the consortia BER provides clarity and transparency on the formation/ modification of consortia agreements, which are an essential part of today’s liner shipping industry, and therefore the ASF fully agrees with the Commission’s proposal to extend the applicable date of the consortia BER until 25 April 2020.

The ASF appreciates again the opportunity for conveying the voice of Asian shipowners to the Commission.

Respectfully submitted,

Yuichi Sonoda
ASF Secretary General