

EU puts a stop to antitrust exemption for liner shipping consortia



Bojan Lepic • October 10, 2023 0 0 2 minutes read



The European Commission has decided not to extend the EU legal framework which exempts liner shipping consortia from EU antitrust rules.

The Commission said on Tuesday that the Consortia Block Exemption Regulation (CBER) no longer promotes competition in the shipping sector and therefore it will let it expire on April 25, 2024.

Today's decision follows a review process launched in August 2022, aimed at gathering evidence on the functioning of the CBER since 2020. The CBER allows shipping lines, under certain conditions, to enter into cooperation agreements to provide joint cargo transport services, also known as consortia.

The Commission launched [a call for evidence](#) in August 2022 inviting feedback from stakeholders on the performance of the CBER. It sent targeted questionnaires to the most interested parties in the maritime liner shipping supply chain on the impact of consortia between liner shipping companies as well as of the CBER on their operations.

At the time, ten trade organisations, representing the owners and forwarders, port terminal operators, and other parts of the supply chain dependent on container shipping, demanded an immediate start to the CBER [review](#). They jointly stressed that the benefits of the exemptions from general competition law enjoyed by the liners are not being shared fairly with the rest of the economy.

Now the Commission published the findings of its evaluation and the evidence collected from the stakeholders points towards the low or limited effectiveness and efficiency of the CBER throughout the 2020-2023 period.

“Given the small number and profile of consortia falling within the scope of the CBER, the CBER brings limited compliance cost savings to carriers and plays a secondary role in carriers’ decision to cooperate. Furthermore, over the evaluation period, the CBER was no longer enabling smaller carriers to cooperate with each other and offer alternative services in competition with larger carriers,” the European Commission explained.

According to the Commission’s statement, the expiry of the CBER does not mean that cooperation between shipping lines becomes unlawful under EU antitrust rules, instead, carriers operating to or from the EU will assess the compatibility of their cooperation agreements with EU antitrust rules based on the guidance provided by the Horizontal Block Exemption Regulation and Specialisation Block Exemption Regulation.

The Commission previously extended the validity of the CBER in 2014 and 2020. The extension made in 2020 was essentially justified by the absence of deterioration in the parameters of competition – mainly freight rates, availability, and reliability of services – over the 2014-2019 period. This extension was nevertheless limited to four years to better account for possible changes in market circumstances.

“Shipping services are crucial to European and world trade. This key sector has undergone significant structural changes, such as carriers’ consolidation, global alliances, and vertical integration, resulting in new market conditions, which became apparent during the coronavirus pandemic. Our evaluation has shown that a dedicated block exemption for shipping lines is no longer adapted to those new market

conditions," Didier Reynders, European Commission's head of competition policy.