THE HONG KONG SHIPPERS' COUNCIL

603, 9 Chong Yip Street
Kwun Tong, Kowloon,
Hong Kong
Website: http://www.hkshippers.org.hk

Telephone: (852) 2211 2323
Facsimile : (852) 2891 9787
Email: shippers@hkshippers.org.hk

Circular No. HKSC - 3938

Date: 20 September 2021

To : Members of the Hong Kong Shippers' Council
Subject : Top regulators find no evidence of price collusion by box lines as Shippers demand answers

Shippers might be interested in Federal Maritime Commission (FMC)'s latest findings that there shows no evidence of price collusion between leading container lines or the big three global alliances despite intense scrutiny and amid widespread suspicion of market manipulation. Please find a brief update in the article below.

European Shippers Council (ESC) is invited to speak on Thursday, 23 September 2021 with the EU Commission regarding the container crisis. ESC being part of Global Shippers Alliance (GSA) will draw upon the shared problems worldwide in explaining the situation to the Commission. ESC will give the Council an update of the meeting outcome, after the meeting, and we will update members the development.

Sunny Ho
Executive Director

Top regulators find no evidence of price collusion by box lines as shippers demand answers

Record high freight rates are a direct result of unprecedented demand and not market manipulation, says Federal Maritime Commission chairman.

The Washington agency responsible for regulating the US ocean shipping trades has told container lines to explain and justify their congestion surcharges as chairman Daniel Maffei says carriers may be following the letter of the law, but not necessarily the spirit of it, and are not always behaving like good corporate citizens.

THE world's most powerful maritime competition regulators have found no evidence of collusion between leading container lines or the big three global alliances despite intense scrutiny and amid widespread suspicion of market manipulation.

THE HONG KONG SHIPPERS' COUNCIL
603, 9 Chong Yip Street
Kwun Tong, Kowloon,
Hong Kong
Website: http://www.hkshippers.org.hk
Telephone: (852) 2211 2323
Facsimile : (852) 2891 9787
Email: shippers@hkshippers.org.hk

Federal Maritime Commission chairman Daniel Maffei told Lloyd's List that the US agency, European Commission, and China's Ministry of Transportation, had all come to the same conclusion that there has been no artificial reduction in capacity that would raise prices.

The trio, which held one of their regular trilateral meetings earlier this month, each monitors the container trades in different ways. Yet all three agreed that current prices were based on market forces, and not any anti-competitive behaviour.

With freight rates soaring to all-time highs, many shippers have complained that carriers must be unlawfully working together and demanded action from competition authorities such as the FMC.

But that reflects a misunderstanding of both the FMC's role and the economics of shipping, according to Mr Maffei, a registered Democrat who was appointed chairman earlier this year following Joe Biden's US presidential election victory.

"A lot of smart people look at how rates have gone up three, four, or five fold and assume there must be some sort of cheating or profiteering, and we have to remind them that, at least according to the law, high prices are not in themselves a violation of The Shipping Act," Mr Maffei said.

Indeed, even if lines were ordered to cut rates, which would be outside the FMC's remit, that would not resolve the current supply chain congestion, since lower prices would boost demand. Instead, cheaper shipping costs would create even more bottlenecks and delivery delays, rather than solve the current logjams.

Speaking as the number of containerships waiting at anchor or in drift areas outside Los Angeles and Long Beach reached an all-time high of 65, the FMC chairman said record spot freight rates were simply the result of so much more demand than the ocean shipping industry has ever encountered before.

Nevertheless, the FMC "will not stop looking" for potential breaches of the law, he warned the industry, while carriers are being told to justify some of their additional congestion-related surcharges.

Interviewed by Lloyd's List during London International Shipping Week, Mr Maffei also noted that, while the global carriers were following the letter of the law, "they are not following the spirit of it".

The FMC has already launched an investigation into extra fees being levied, including congestion charges. Hapag-Lloyd, for example, has been asked to explain its value added fee. "What value are they adding?" Mr Maffei asked. "Are they wrapping the container in Christmas paper?" The German line introduced a value added surcharge of $4,000 for 20 ft containers being shipped from China to North America, and $5,000 for 40 ft boxes, on August 15. The fee, which does not affect mid-term or long-term contracts, is designed to replace other ad hoc surcharges, according to Hapag-Lloyd, and reflects "the continuation of extraordinary demand from China and the resulting operational challenges along the transport chain".

THE HONG KONG SHIPPERS' COUNCIL

603, 9 Chong Yip Street
Kwun Tong, Kowloon,
Hong Kong
Website: http://www.hkshippers.org.hk

Telephone: (852) 2211 2323
Facsimile : (852) 2891 9787
Email: shippers@hkshippers.org.hk

While additional fees may be justified in exceptional circumstances such as local disruption in a particular port complex, Mr Maffei said imposing separate charges for congestion which is a worldwide problem "seems absurd". Instead, these should be incorporated into the basic ocean rate. "I don't think the carriers are acting like perfect corporate citizens," he asserted. Although the alliances are not cheating by artificially lowering supply, surcharges are being levied on top freight rates that are already sky-high, while the way they are calculated is not transparent.

"We have to get to the bottom of these extra fees that must be for a real purpose," said Mr Maffei. He cited a charge linked to decarbonisation costs as a levy that probably would be regarded as acceptable.

The Ocean Shipping Reform bill now before Congress may give the FMC more power to look at unreasonable detention and demurrage fees and other surcharges.

When container lines first started co-operating with each other, these consortia were mostly in a single trade lane and welcomed by both competition authorities and cargo interests as a way of creating economies of scale that would be passed on to customers.

But after several rounds of industry consolidation, the number of truly global lines has been reduced to about eight carriers that are grouped into three big vessel-sharing agreements operating in the east-west trades — 2M, Ocean Alliance, and The Alliance. Unlike the former conference system that enabled lines to set prices together, alliance members are not permitted to discuss freight rates or quote a common tariff. Nevertheless, the fact that they are not supervised by a single jurisdiction, plus their scale, the unprecedented spike in freight rates, and huge profits this year, has raised concerns in some quarters about whether they are somehow bending the rules and profiteering from today's extraordinary trade conditions.

The FMC chairman will feature in Lloyd's List's weekly podcast on September 24.