



March 17, 2022

The Honorable Dick Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Durbin and Ranking Member Grassley:

The U.S. Chamber of Commerce is concerned with reports that S. 3586, the Ocean Shipping Competition Reform Act of 2022, may be considered by the full Senate without the thorough hearing and mark-up by your Committee. We urge you to consider the bill under regular order to fully study the need and effect it would have.

It is not clear what problem the legislation is attempting to solve. Under current law, ocean carriers are subject to both significant regulatory and antitrust scrutiny with respect to price and non-price competition factors.

Regarding price competition factors, certain pricing practices are heavily regulated by the Federal Maritime Commission, while others are safeguarded against collusion by the enforcement of the antitrust laws. Further, collaborative efforts unrelated to price amongst the ocean transportation industry can not only be pro-consumer and pro-competitive, but also essential when it comes to addressing supply-chain bottlenecks and improving efficiency. It is notable that both the International Longshoremen's Association and the American Association of Port Authorities have both expressed concerns about this legislation and its potential impact on improving port and cargo operations.

Adding the Department of Justice to co-enforce the same law as the Federal Maritime Commission is already charged with enforcing is a solution in search of a problem. Further, authorizing third parties to bring civil actions raises obvious questions about the real intent of this legislation and whether it is really designed to support a competitive and efficient marketplace or to create more legal uncertainty.

The Chamber shares the strong desire to relieve supply-chain bottlenecks. A critical first step is appropriately diagnosing the problem, which undoubtedly includes COVID-19 related disruptions and abrupt shifts in consumption away from services and into goods, resulting in increased demand for the shipping of globally traded goods. We appreciate the administration's efforts to bring together various industry

players to address these challenges and the new opportunities to upgrade our ports as part of the Infrastructure Investment and Jobs Act. Yet, we strongly caution against rash changes to existing law, especially when the need for and consequences for such changes is unknown.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neil L. Bradley", with a stylized flourish at the end.

Neil L. Bradley
Executive Vice President,
Chief Policy Officer,
and Head of Strategic Advocacy
U.S. Chamber of Commerce

cc: Members of the Senate Committee on the Judiciary