



Evaluation of the Consortia Block Exemption Regulation

Article 101(1) of the Treaty

prohibition on anti-competitive agreements:

- **Fixing purchase or selling prices**
- **Limit or control production, markets, technical development or investment**
- **Share markets or sources of supply**

Article 101 (3) of the Treaty

Allows to declare Article 101 (1) inapplicable to:

- **Agreements improving production, distribution, technical or economic progress and**
- **Allowing consumers fair share of the benefit**
- **Not eliminating competition**

Consortia in liner shipping

- Liner shipping: regular, scheduled maritime cargo transport on a specific route.
- Require significant levels of investment
- Regularly provided by several shipping companies in cooperation ("consortia"):
 - **Vessel sharing**
 - **Slot exchange**
 - **Slot purchase**
 - **Joint service agreements**
- Consortia can lead to economies of scale and better utilisation of the space of the vessels.

Consortia and Article 101(1)

Article 101(1) prohibits anti-competitive agreements:

- **Share sources of supply**
- **control production or investment**
- **Fixing purchase or selling prices**

Consortia and Article 101 (3)

- Agreements improving production, distribution, technical or economic progress –
 - **economies of scale and better utilisation of the space of the vessels**
- Consumers enjoy a fair share of the benefits -
 - **Higher frequencies**
 - **More ports of calls**
 - **Better equipment and services**
 - **Lower prices**

but - there must be sufficient competition in the market to ensure that consumers benefit

The Enabling Council Regulation

- *Council Regulation 246/2009*
- *In accordance with Article 101(3) Empowers the Commission to adopt a regulation setting the conditions under which consortia agreements to declare Article 101(1) inapplicable*
- *will be exempted from Article 101(1)*
- *Commission regulation for periods of 5 years*

The Consortia Block Exemption Regulation ("CBER")

- *Commission Regulation 906/2009*
- *Defines and exempts from the application of Article 101(1) consortia agreements between liner shipping companies*
- *Endeavours to ensure sufficient competition in the market:*
 - **Sets market share ceiling for consortium**
 - **Prohibits coordination of prices between the member of a consortium**

The Evaluation

- The CBER will expire in 25 April 2020
- Evaluation process
 - Roadmap (May 2018)
 - Public consultation (September – December 2018)
 - Analysis of the responses and preparation of a staff working document
 - Decision H2 2019

The Evaluation

- The 5 standard evaluation criteria:
 - **Effectiveness**
 - **Efficiency**
 - **Relevance**
 - **Coherence**
 - **EU added value**

Thank you!