

Protect small and medium-sized businesses from skyrocketing shipping costs and anti-competitive business practices

Sending Office: Honorable Susan Wild

The Honorable Daniel B. Maffei
Chairman
Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, D.C. 20573

Dear Chairman Maffei:

We write to you regarding the urgent need to address severe price-gouging in shipping costs and the rise in anti-competitive business practices by the large shipping alliances that, together, control virtually the entire global maritime shipping market.

For constituents across our communities who have built small and medium-sized businesses that rely on reasonable shipping costs and reliable business practices, the price-gouging and turmoil in this market during the COVID-19 pandemic has come at a severe cost. During this period, shipping container shortages caused by broader global supply chain disruptions have dramatically increased shipping costs. Recent reporting has shown 2021 costs in certain cases to be more than *14 times* higher than they were at the same time two years ago. These unprecedented cost increases—combined with a rise in anti-competitive business practices, including instances in which our constituents have seen ocean carriers refuse to honor pre-existing contracts—have come to represent a major threat to businesses in our communities.

President Biden’s July 9, 2021 Executive Order (EO) on promoting competition in the American economy seeks to address these problems and outlines a series of recommendations to combat excessive consolidation and anti-competitive business practices in the global shipping sector. In particular, the EO encourages the Federal Maritime Commission (FMC) to:

“(i) vigorously enforce the prohibition of unjust and unreasonable practices in the context of detention and demurrage pursuant to the Shipping Act, as clarified in “Interpretive Rule on Demurrage and Detention Under the Shipping Act,” 85 Fed. Reg. 29638 (May 18, 2020);

(ii) request from the National Shipper Advisory Committee recommendations for improving detention and demurrage practices and enforcement of related Shipping Act prohibitions; and

(iii) consider further rulemaking to improve detention and demurrage practices and enforcement of related Shipping Act prohibitions.”

As the FMC works to advance its mission of protecting U.S. interests in the maritime sector, how does the commission specifically plan to respond to consolidation and anti-competitive practices in this sector? As these conditions continue to harm our hard-working constituents and threatened to put them out of business, does the FMC plan to conduct more robust enforcement of its existing oversight capabilities? In addition to the FMC’s welcome announcement on September 15 that it will pursue a rule on detention and demurrage practices, is the agency considering any additional rules on these matters? If so, could you provide a detailed response outlining any such potential new rules? And, finally, are there additional authorities that Congress could provide the FMC through legislation that would help the commission better meet these challenges?

Thank you for your consideration. We look forward to your timely response and to working alongside you to make progress on these critical issues.