



PRESIDIUM OF THE FEDERAL ANTIMONOPOLY SERVICE

INSTRUCTIONS

“On Publication of Freight Charges by International Shipping Lines”

No. 9

Moscow

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1. The Preamble and Aims of the Instruction

Taking into account the provisions of the antimonopoly legislation of the Russian Federation and in order to prevent the risk of its violation by conducting concerned actions, it would be appropriate to establish the following instructions to the participants of the shipping lines on the following minimum requirements to the conduct in liner container shipping market if port of loading and (or) unloading is the ports of the Russian Federation.

2. Terms and definitions used in the present Instruction

For the purposes of the present Instruction, the following terms shall be interpreted in the following meanings:

"Price" means the monetary sum or sums charged by shipping lines for the provision of carriage of containerized cargo by sea with respect to port pairs with origin or destination in Russia.

"Publication" means the dissemination of information by shipping lines, including publication of information on their official websites in the information and telecommunication network "Internet", in the form of newsletters and customer advisories, in the media or in any other publicly accessible medium.

"Publication" does not include any non-public form of informing by liner container shipping companies on its Prices and possibilities of their changes, in particular, submitting this information via e-mails, telephone calls, personal meetings, or publishing such information in the personal account of the Purchaser on the carrier's web site or any other way which does not mean possibility to access to the Message for the general public.

"Purchaser" means a purchaser of container shipping transport services.

3. Considered Antimonopoly Risks

3.1. Point 1 Part 1 Article 11.1. of the Federal Law No. 135-FZ as of July 27, 2006 "On Protection of Competition" (hereinafter – the "Competition Law") prohibits concerted actions by competing economic entities if these concerted actions result in setting or maintenance of prices (rates), discounts, surcharges (additional payments) and (or) extra charges.

According to Part 1 Article 8 of the Competition law, concerted actions of economic entities are actions of economic entities on a commodity market that are exercised in the absence of an agreement and meet the aggregate of the following conditions:

- 1) the outcome of such actions meets the interests of each of the above economic entities;
- 2) actions are known in advance to each of participating economic entities due to a public statement made by one of them about exercising such actions;
- 3) actions of each of the above economic entities are caused by actions of other economic entities, participating in concerted actions, and are not due to the circumstances equally affecting all economic entities on the relevant commodity

market. Such circumstances, in particular, can be changing regulated tariffs, changing prices for the raw materials used to produce goods, changing prices for the goods on the global commodity markets, considerable changing of the demand for the goods within no less than one year or within the period of existence of the relevant market if less than one year.

3.2 In the market of international liner container shipping a public statement may be Publication by liner container carrier of information on planned price changes or its elements through publishing of relevant message in the information and telecommunication network “Internet” in the form of newsletter and customer advisories.

Such form of informing purchasers on planned or possible price changes creates awareness of liner container carriers on price intensions of each other and, in such a way, lays groundwork for violation of antimonopoly legislation in the form of prohibited concerned actions.

3.3. Publication of information on planned or possible price changes on relevant route may be the element of prohibited concerned actions if the following circumstances exist in aggregate:

- a Publication concerns price policy in future period;
- once a Publication is done, several competing liner shipping carriers change Prices in the correlated level and in the same or close dates;
- objective reasons for changing Prices are absent, including circumstances, influencing in the same way on all liner shipping carriers on the same route;
- appropriate economic assessment of planned or possible price changes is absent, or there are other signs that price solutions of liner container carrier(s) are determined by actions of competitors and are not the result of circumstances influencing in the same way on all liner shipping carriers.

Recommended Rules

3.1. Liner shipping carriers in decision-making on any price changes shall be guided by market factors, reasonable assessment of potential capacity

loading, volume of necessary expenditures, other economic indicators of commercial activity as well as circumstances influencing in the same way on all liner shipping carriers.

3.2. In making Publications on planned or possible price or its elements' changes (in particular, Publication of General Rate Increase), liner shipping carriers shall take into account the fact that such Publications can be served as an element of prohibited concerned actions if as a result of such Publications prices of several carriers on the same routes or level of their increase at the same period of time would be compatible.

3.3. The present Instruction is advisory in nature and does not prevent from complying with laws and regulations of any state and/or international treaties.