



# INFOSHEET: EU CONSORTIA BLOCK EXEMPTION REGULATION

## OVERVIEW

THE EU REGULATION APPLIES TO LINER CONSORTIUM AGREEMENTS, REGARDLESS OF THE LEGAL FORM OF THESE ARRANGEMENTS. THE LAW ESTABLISHES A SERIES OF CONDITIONS AND EXEMPTIONS IN THE EU ANTITRUST LEGISLATION, AS IT SEES THESE TYPES OF CONSORTIA AS BENEFICIAL TO USERS.

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The European Commission is currently analysing the review or extension of the EU Consortia Block Exemption Regulation (BER). The law limits the application of the EU antitrust rules to consortia that do not exceed the 30% market share condition established in the Regulation.

Thus, these consortia are allowed to:

- Operate jointly shipping services by pooling vessels and port installations, coordinating or fixing sailing timetables, etc.
- Make capacity adjustments in response to fluctuations in supply and demand.

- Operate or use jointly port terminals and related services
- Other activities necessary for the implementation of the consortium agreement such as the use of data exchange systems or limitations to the charter of vessels belonging to third parties.

Nevertheless, the Regulation strictly prohibits the fixing of prices when selling liner services to third parties, the limitation of capacity or sales and the allocation of markets. The legislator justified these exemptions taking into account the productivity and efficiency gains generated by the economies of scale, which should benefit transport users. Moreover, lawmakers affirmed that the market share limitations and the explicit antitrust prohibitions would hinder liners from distorting the market.

But this legislation has contributed to the increase of liner alliances leverage on ports and port operators. According to an **International Transport Forum report** the creation of consortia has facilitated "*the concentration of port networks and bigger cargo shifts from one port to another*", or the emergence of "*destructive competition between terminal operators and between other port service providers such as towage companies*". This new reality has forced towage companies to make bigger investments to service consortia's megaships and intensify the concentration trend in the European towage sector. Moreover, the consolidation of this alliances has "*reduced the number of customers in ports, thereby increasing the pressure on towage rates*".

ETA has made its submissions in the public consultation process. The deadline for this was December 2018. In the submission, we have stated that we do not necessarily favour a repeal but we believe that if the exemption will be carried forward this should be done with specific guidelines and making parts of the regulations clearer. ETA particularly emphasised that the BER should clearly specify that alliances cannot jointly negotiate for port services. Moreover, ETA has agreed a **common position** with its stakeholders in the maritime and logistics sector

If you wish to obtain more information on this issue contact the **ETA Secretariat**

