Merger Review in the Container Liner Shipping Sector

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¹ The views expressed are those of the author and cannot be regarded as stating an official position of the European Commission. These slides are part of a presentation and cannot be fully understood separately from that presentation. Ideas presented here are intended to promote further discussion and analysis. They may not represent a complete or well-articulated picture of the author’s view.
Outline

- Market Structure & Consolidation
- Market definition
- Market share calculation
- Assessment – the free market
- Recent cases:
  - With remedies
  - Unconditional clearance
- Verticals – Terminals
- Question time
Market Structure

• Global industry increasingly concentrated
  • After latest merger wave top 5 carriers account for around 65% of global tonnage
  • Five leading carriers with global scale
  • Ten small global carriers with market shares of 2-5% trying to catch up with five industry leaders
  • Carriers with scale in a certain region
  • BUT: Commission looks at legs of trade

• Product is a commodity
  • Standardised container
Market Structure

Tipping Scale
Top 5 container lines control more than half of the global market

- 7.2% Hapag-Lloyd
- 11.6% CMA CGM
- 11.7% Cosco, OOCL
- 14.5% Mediterranean Shipping
- 16.7% Maersk
- 38.3% Others

Note: Figures as of Aug. 10
Source: Alphaliner
Market trends

• Structural Overcapacity
  • Despite massive scrapping, increase in capacity: +5.6% in 2018 according to Alphaliner. Due mainly to continued delivery of mega ships > 13,000 TEU
  • Capacity growth > demand growth over past decade

• Declining freight rates
  • Industry incurs losses
  • Bankruptcy of then world's number 7, Hanjin, in autumn 2016
  • However, signs of recovery since May 2017

• Consolidation
  • Since 2014: new merger wave, and reduction of global alliances from 4 to 3. Further consolidation?
3rd Merger Wave 2014-2017

- M.7268 Hapag/CSAV 11 September 2014
- Cosco/CSCL February 2016
- M.7908 CMA CGM/NOL (APL) 29 April 2016
- M.8120 Hapag/UASC 23 November 2016
- M.8330 Maersk/Hamburg Süd 10 April 2017
- M.8472 NYK/K-Line/MOL (ONE) 28 June 2017
- M.8594 Cosco/OOCL 5 December 2017
Assessment Framework Mergers

- Market definition
  - Dry/reefer
  - Trade legs
  - Deep sea vs. short sea

- Competitive Assessment
  - Alliances/free market
  - Remedies
Product Market Definition

- Dry vs. reefer containers (left open) (only if reefer volume is >10% in any leg of a trade)
- Reefer containers vs. bulk reefer vessels (left open)
Geographic market definition

Northern Europe

South America East Coast

North- and South-bound legs
Competitive Assessment

VESSEL SHARING AGREEMENTS (VSA = Consortium = Alliance)

- Joint service
- Some competition intra-VSA
- Joint setting of capacity $\rightarrow$ main driver for prices

Market share of a given container shipping liner includes volumes shipped by consortium partners
Competitive Assessment – Market Share Calculation

• Commission looks at two market shares:
  • The sum of the merging entities individual market shares
  • Parties' combined market share plus the market share of all shipping lines participating in any of the Parties' consortia.
  • Basis is usually volume data provided by CTS.
• There is no double counting as each carrier's share is only added once.
• The remaining market share is deemed to be the "free market" which are volumes unconnected to the merged entity and their consortia/alliances.
Competitive Assessment

SERIOUS DOUBTS

• If "free market" <60% → in-depth analysis
• New links between entities previously independent
• Lack of independent competitors

REMEDIES

• Withdrawal from consortium/ breakage of new links created by the transaction
• Space/Slot Charter Agreements (M.5756 DFDS/Norfolk)
# Recent Commission Decisions

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Recent Commission Decisions – unconditional clearances

There were two more decisions in 2017, cleared without any remedy

- M.8472 NYK/MOL K-Line (ONE)
  - Joint control on the basis of commonality of interest
  - All three already members of THE Alliance
  - "free market" exceeds 60% on all those affected legs of trade

- M.8594 Cosco/OOCL
  - Both already members of the OCEAN Alliance
  - NE-NA free market below 60%, but SLCS-link not new
Vertical integration - Terminals

Many liner shipping companies are integrated into terminal services: APMT, TIL etc.

- M.8459 TIL / PSA / PSA DGD (Port of Antwerp)
- Foreclosure to the benefit of MSC?
- Deurganck dock crown jewel of harbour for mega vessels
- What is the relevant market? Antwerp, Belgium, ARA, whole Hamburg-Le Havre range?
Thank you!

The public version of the decisions mentioned in this presentation can be found on our website:

http://ec.europa.eu/competition/mergers/overview_en.html

Antitrust Legislation: