June 7, 2021

Re: Docket #21-03

Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, D.C. 20573

The Association of Food Industries submits these comments in response to the Advance Notice of Proposed Rulemaking published April 8. AFI, established in 1906, is the trade association for the U.S. food import industry.

The pandemic has clearly brought into focus the ever-changing nature of the ocean shipping industry. While much of that change over the years has been good, the pandemic served to spotlight negative issues. AFI is grateful the FMC is taking steps to attempt to address components of the overall issue but urges the commission to work with other government agencies in the U.S. and elsewhere to address the overall problem.

Media reports confirm what AFI members have indicated they're facing: rates sometimes 2-3 times what they were a year ago; a host of added charges; significant delays, particularly if one resists any of the added charges; and no guarantee product will actually be put on the scheduled vessel. Similar issues are being faced by exporters. Meanwhile, carriers are reporting record profits.

This is an issue facing products from all sectors. While businesses did their best initially to absorb the increased costs, they can't continue to do that and survive. Therefore, there's no other option but to pass the added costs on to consumers. Prices of many often-cited items (gasoline, lumber, automobiles, etc.) have increased over the past several months and without some relief in the shipping arena, similar price increases will be seen across the board.

The impact is even greater on small businesses than on larger ones. Larger shippers have more leverage with carriers and others in the transportation sector, so they're not seeing the same level of increases as smaller firms. Additionally, many of those larger firms buy from smaller firms and are telling those firms they are not willing to absorb any of the added fees.

Regarding the publication of carrier tariffs, thankfully most large steamship lines self-publish their rates and many NVOCCs are setting rates through NVOCC Service and/or Negotiated Rate Arrangements, which require the rates be made available to the public free of charge. For the others, tariff access charges should cover only the actual costs for maintaining access to the tariffs.

Regarding pass-through charges, while transparency is needed, there's also a need – with help from Congress and government agencies within and outside the U.S. – to limit carriers' ability to levy charges. While we understand steamship lines weren't immune to cost increases due to the pandemic, the record profits they're reporting bely justification for such drastic increases and added pass-through fees. NVOCCs are often placed in the unenviable position of having to inform customers of added fees over which those NVOCCs have no control. There are also timing issues. Sometimes things such as general rate increases are instituted with little or no notice, leaving the NVOCCs little or no time to inform customers. Those imposing the fees appear to have no requirement to justify their implementation. They can't continue to go unchecked. Similarly, anyone passing along those fees should be made to demonstrate those fees are indeed being charged.

The entire ocean carrier/port operations/logistics puzzle needs to be reviewed. Importers and exporters are often hit with charges for things over which they have no control, with no way to appeal those costs – whether they be drayage, repositioning, GRIs, etc. AFI again applauds the FMC for taking steps to address this situation and again calls for the FMC to work globally to address the entire logistics landscape.

Sincerely,

Bob Bauer
President