

**Statement of Carl W. Bentzel**  
**Nominee, U.S. Federal Maritime Commission**  
**U.S. Senate Committee on Commerce, Science, and Transportation**  
**September 25, 2024**

Chair Cantwell, Ranking Member Cruz and members of the Committee, good morning and thank you for the opportunity to appear here before you today as a nominee to be Commissioner of the Federal Maritime Commission (FMC). I would also thank you both for the courtesies that your staff extended to me throughout the nomination process. I would like to recognize my Chairman, Dan Maffei and thank him for being here in supportive attendance. Most importantly, I would like to recognize my wife, Suzanne, who I met and fell for while working here on the Commerce Committee. Finally, I would like to thank President Biden for nominating me for a second term.

When I came before this Committee, as a nominee, five years ago, the world and the Federal Maritime Commission were in a different place. The pandemic had not yet gripped the country. The shipping industry although essential to the nation's economy was invisible to the public eye. Then it wasn't. The earliest part of the pandemic resulted in reductions of over 20% imports of containerized cargo through West Coast ports, and then by early summer swung to over 30% increases, a stunning change in demand. During the entirety of the pandemic, we saw 27% increases of imported containers and 1% increases of exports.

Movement of enhanced cargo volumes were at first stymied on the West Coast with the lack intermodal chassis, and then by intentional suppression of container availability, as the Chinese government-controlled container manufacturers intentionally suppressed production. Container shipping lines ultimately were forced to wait off the U.S. coast for 1-2 weeks before berthing. The result of congestion and enhanced supply needs were that shipping rates were increased on the spot market by 10 to 15 times the rate prior to the pandemic, and transits took more than three times longer. In my view this was the most singularly important factor in driving inflationary cost.

Congress and specifically this Committee, responded to the shipping challenges by passing the Ocean Shipping Reform Act of 2022, which the President signed into law on June 16, 2022. Since that time, the Commission has been busy and engaged in implementing OSRA-22. This summer the Commission released two final rules, on Detention and Demurrage and the second a rule on Refusal to Deal or to provide service.

In addition, the FMC has put in place a charge complaint process, mandated through OSRA, that allows shippers to file complaints and get streamlined resolution to their shipping conflicts. This has been a revelation for smaller and larger shippers alike, especially exporters that do not have the financial resources to file large scale cases. It has also demanded that the ocean carriers come to the table and engage in conflict resolution. Over 12 billion dollars was assessed in detention and demurrage by ocean carriers and marine terminals over the course of the pandemic, while many of these penalties could be justified, others were unfairly assessed. The Federal Maritime

Commission is currently stressed accommodating the volume of legal challenges to the evaluation of the reasonableness of penalty assessments. We are currently processing more complaints than any other time in our history.

The FMC is an independent agency with specialized experience in the international ocean transportation industry. The agency is charged with the responsibility of administering a law that, in addition to protecting the public from unfair practices, provides a focused antitrust regulatory regime tailored to factors affecting regularly scheduled international ocean shipping trade. Under the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998, Congress found that collaborative joint venture agreements between and among ocean carriers and marine terminal operators may and can provide efficiencies and reduced costs that ultimately benefit U.S. importers and exporters and save the U.S. consumer money. The Commission's responsibility is to review agreements and determine that they do not unreasonably reduce competition or increase transportation costs. The FMC reviews and continues to actively monitor these joint collaborations and agreements under the Shipping Act to ensure that pro-competitive efficiencies and cost savings are obtained for the benefit of U.S. consumers.

The FMC also engages in a variety of activities to protect the public from financial harm, including licensing, registration, and monitoring the practices of intermediaries and implementing financial bond requirements for over 6,000 ocean transportation intermediaries (OTI). Our statutes require the FMC to investigate and prosecute unreasonable or unjust practices or rules on private party complaints alleging Shipping Act violations. These activities contribute to the competitiveness, integrity, fairness, and efficiency of the Nation's import and export supply chains and the ocean transportation system.

The FMC has authority under the Foreign Shipping Practices Act of 1988, and Section 19 of the Merchant Marine Act, 1920 to evaluate the practices of foreign governments to determine whether they are unfavorable or discriminatory. The FMC is authorized to take certain actions in response to the discriminatory practices of foreign governments, after investigation and due process, to help address anti-competitive discriminatory foreign shipping practices. Finally, the FMC is required to impose certain additional protections with respect to foreign carriers that are operate under government control to ensure that they do not engage in predatory pricing practices.

In sum, the FMC's objectives are to maintain an open, competitive reliable international ocean shipping system, and protect the shipping public from unlawful, unfair and deceptive ocean shipping practices.

It is with great pleasure and honor that I was re-nominated for this position. In 1995, I was hired to work as a Senior Counsel for the Senate Committee on Commerce, Science and Transportation where I worked for Senators Hollings, Breaux and Inouye on maritime and surface transportations issues. During this time, we worked closely and on a bi-partisan basis with Senators Stevens and Lott to deregulate ocean shipping requirements to allow confidential shipping contracts, and to furnish the current regulatory structure governing international ocean liner shipping and FMC operations today. The Ocean Shipping Reform Act of 1998 was a

landmark change in the way we regulate ocean shipping, where I believe we adequately balanced the need for a more competitive regulatory environment with a proper degree of oversight.

My time spent as a staffer working for the Senate Commerce Committee was a work career highlight and gave me opportunities to learn more about the maritime industry than perhaps any other employment position. I have had the opportunity to experience firsthand, port and marine terminal operations, visit shipping lines to understand their logistics challenges, and garner a greater understanding of intermodal trucking and rail issues pertaining to services through our ports. I feel graced to have had this opportunity.

While it would not be appropriate to comment on specific areas where the FMC is currently considering policy, I did want to identify a few general policy areas that I believe will be important for the FMC as the agency moves forward to the future.

The maritime industry is increasingly tied to the efficiencies of their intermodal partners in moving cargo through marine terminals and ports and onto the surface transportation modes of trucking and rail. There are multiple players involved in port and maritime terminal management, and throughput infrastructure is often a shared venture. Freight volume increases, while providing economic benefit, also carry with it negative impact on surrounding community's environmental quality.

Another area of potential concern are the impacts of consolidation. However, I believe that the ocean shipping market remains strongly competitive, but also recognize the need for continued vigilance. The U.S. antitrust guidelines governing competition utilized by the FMC in consideration of filed agreements generally can be used to conclude that the international ocean liner industry market is very competitive, but I believe that we need to continue to require greater scrutiny given the nationalization of some of the shipping lines, and the economic stakes that could be involved in potential market manipulation.

I would be remiss if I did not mention some of the macro-supply chain challenges that are and will continue to stress the shipping industry and will cause competitive impacts and reduce efficiency of our supply chain.

First, the People's Republic of China (PRC) has invested heavily to ensure that China will continue to dominate in multiple aspects of maritime trade as an instrument of foreign policy. Chinese government-controlled companies manufacture, conservatively, over 98% of the marine containers used in world trade, 80% of the intermodal shipping chassis used in trucking containers, 60% of the ships used in the international commercial trade. Over 20% of our regularly scheduled ocean carrier service providers are Chinese government controlled. We need to continually scrutinize this market for potential market abuse to protect against what has already been established as Chinese market dominance.

Secondly, Red Sea shipping attacks on innocent merchant shipping and the effective closure of the Suez Canal are actions with international consequence, and I do not believe that the public understands the costs to world economies that we are already paying as result of international inaction. International will seems to be lacking. The Red Sea shipping route is an international maritime superhighway, could you imagine the reaction if a terrorist organization highjacked usage of I-95 – but that’s what is essentially happening.

Finally, an International Maritime Organization (IMO) rule, commonly referred to as “IMO 2050”, requires ocean carriers reach an enhanced common ambition to achieve net-zero GHG emissions from international shipping by or around, i.e. close to, 2050. While I believe that the target is attainable and support the target, I am concerned that implementation of the new requirements will shift the fuel used in maritime transportation from a single petroleum source to 3 or 4 alternative fuels. We need further assessment to ensure that clean energy sourcing can occur, consistent with other societal protections and energy use obligations. Ultimately, the market will adjust to the new fuel requirements.

Chair Cantwell and Ranking Member Cruz, if given the privilege of continuing to serve as a Federal Maritime Commissioner, I pledge to you that I will follow the statutory requirements of the law in an objective and unbiased basis. I also pledge to be fully responsive and engaged with any demand or request of this Committee as you discharge of your legislative and regulatory oversight of the FMC.

I wish to thank you and your staffs once again, and I am pleased to answer any questions that you might have.