

WRITTEN TESTIMONY OF

THE NATIONAL RETAIL FEDERATION

FOR THE RECORD

FOR

**THE HOUSE COMMITTEE ON TRANSPORTATION &
INFRASTRUCTURE
SUBCOMMITTEE ON COAST GUARD AND MARITIME
TRANSPORTATION**

FOR

**HEARING ON CAPACITY OF VESSELS TO MEET U.S. IMPORT
AND EXPORT REQUIREMENTS**

MARCH 17, 2010

On behalf of the National Retail Federation (NRF), I submit these comments to the House Committee on Transportation and Infrastructure Subcommittee on Coast Guard and Maritime Transportation to be included in the record for its March 17, 2010 hearing on "Capacity of Vessels to Meet U.S. Import and Export Requirements."

Recent actions in the Transpacific trade lanes over the past several months have NRF members very concerned about the future of ocean rates as well as capacity for the coming year. This issue is of critical importance as NRF members and other businesses rely on imports and exports to continue to recover from the recession. In order to maintain our economic recovery, we must ensure that ocean carriers will be able to meet the demands of their customers with available capacity. Inability to get goods to market will only serve to dampen the recovery we are experiencing and further negatively impact the retail industry, and the U.S. economy as a whole.

As the world's largest retail trade association and the voice of retail worldwide, the National Retail Federation's global membership includes retailers of all sizes, formats and channels of distribution as well as chain restaurants and industry partners from the U.S. and more than 45 countries abroad. In the U.S., NRF represents the breadth and diversity of an industry with more than 1.6 million American companies that employ nearly 25 million workers and generated 2009 sales of \$2.3 trillion.

The members of the National Retail Federation are among the country's largest shippers, moving hundreds of billions of dollars worth of merchandise through the global supply chain. The ability to move freight quickly and efficiently through the supply chain is vital to retailers' businesses, as well as those of American manufacturers, agricultural producers and the millions of workers they employ. This is even more critical as the U.S. continues to recover from the worst

recession in decades. It is imperative that the international ocean transportation sector be able to meet the needs of those who require their services.

The past year has been very difficult for all businesses that depend on the international movement of freight. The recession led to a significant decrease in the movement of ocean going freight, with carriers and ports reporting significant reductions in container movements. As a result, many carriers removed vessels from their rotation because of the lack of demand. However, we have seen an increase in demand through the end of the 2009 holiday season and through Chinese New Year. Despite these increases in demand, ocean carriers did not respond to customer demand and increase capacity but instead continued to limit capacity in the transpacific market. It was during this time period that many NRF members expressed concern about a lack of availability of capacity, even with their negotiated contracts still in place.

As is the standard, NRF members negotiate 12 month contracts with their ocean carriers or other transportation service providers. The negotiation typically happens during the April-May timeframe. During the negotiations, NRF members will provide carriers with their forecasts and minimum volume commitments. NRF members continue to provide carriers with their forecasts throughout the year to help them to continue to plan. Most companies declined to include General Rate Increases (GRI) or other assessorial charges within their contracts.

Despite clear contract terms detailing rates and service, many NRF members have reported that during the December time frame and again in early 2010 ocean carriers requested increased rates through an Emergency Revenue Charge (ERC) claiming concerns about the availability of space during those times. A majority of NRF members declined the initial rate increases because of the terms contained within their contracts and expected their cargo to be loaded onto vessels.

NRF members started noticing significant capacity issues before the Chinese New Year as the demand for capacity significantly increased. This was artificial demand created as a result of the actions carriers took throughout 2009 to remove vessels and capacity from the system. Carriers once again went to their customers seeking an ERC in order to guarantee vessel space. NRF members noted that conversations with the carriers were all very similar as to the need for the ERC. At this point in time most, if not all, shippers, including NRF members, have been forced to agree to an ERC in order to ensure their cargo was loaded at origin.

Some NRF members, who initially declined to accept an ERC, noted that their cargo was either rolled or the container booking was rejected. One NRF member noted that every container booking they made was rejected by one carrier for a period of two weeks until they agreed to pay the ERC. Even after accepting the ERC, members struggled to get adequate vessel space and suffered rolled containers and delays in their shipments.

The ability of NRF members to have certainty and control over their supply chains to ensure shipment of goods to market and on their stores shelves in a timely manner is critical to their continued recovery from the recession. The artificial limitations on capacity and delays in shipment have resulted in lost sales and profit for retailers. For example, after experiencing several incidents of rolled cargo, one NRF member was forced to break up shipments of patio sets (table, chairs, umbrella, etc.) because of lack of space on vessels. Rather than arriving as a set, the components to the set arrived in a piece-meal fashion. This resulted in a retailer having to alter their advertisement of the goods from advertising a full patio set to advertising individual components. The first quarter of the year is the peak shipping season for patio furniture and home goods. Advertising decisions had been made for these products three to four months prior to the goods arriving in the U.S. Changes in advertising resulted in increased costs for the retailer. The split shipments also forced the retailer to

change how they handled and stored the goods in preparation for sale. These actions come at a significant additional expense to the retailer.

Many NRF members have reported that carriers have told them that capacity will not be added back into the system until several conditions are met. These include an increase in the rates, above what was agreed to as the ERC, and an increase in demand. With companies beginning to prepare for the upcoming negotiations on new ocean carrier contracts, it is critical that carriers address the capacity issues. Forecasts from numerous economists continue to show improvements in the U.S. economy throughout the year. This includes both imports and exports. While carriers have been very public about increasing their rates during the next contract negotiations, they also need to recognize the level of demand that currently exists and will continue to exist throughout the year as the U.S. economy continues to improve.

NRF members have expressed frustration and disappointment throughout this process. Cooperative business relationships that have been built up between carriers and retailers since the passage of the Ocean Shipping Reform Act have been seriously strained over the past couple of months as a result of the capacity crunch created by the carriers and about the carriers' demands for increased rates.

The upcoming contract negotiations will provide retailers an opportunity to work with carriers on issues critical to the industry. Competitive and reliable ocean transportation services are critical to the success of U.S. retailers and the continued growth of the U.S. economy.

While shippers do care about rates and obtaining rates that fit into the consumer price points for the commodities they sell, the ocean carrier contracts are not all about rates. Service is a critical component of the contract. Shippers would all agree that stability and reliability in service is key. Retailers will often choose a

higher priced carrier because that carrier is able to provide consistent and reliable service. Given the recent capacity issues, reliability of service will become an increasingly important issue.

In addition, it is important to note that stability in price, once agreed upon, is critical. Retailers and all other shippers plan their transportation costs on a yearly basis. Any sudden and dramatic increases in shipping rates that were not planned for negatively impact the retailer's bottom line.

The market needs to adapt to the anticipated demand. When carriers artificially limit capacity to justify increased rates, they injure shippers, importers, exporters, retailers and ultimately U.S. consumers. It is critical that ocean carriers work with their customers, including NRF members, to effectively communicate with each other the capacity needs and requirements in order to appropriately handle the trade flows. Only through these partnerships can carriers achieve market stability.

Thank you for the opportunity to submit written comments on this important matter. If you have any questions, please contact Jonathan Gold (goldj@nrf.com), NRF's Vice President, Supply Chain and Customs Policy.