

Supply Chain Blockchain Initiative Receives Federal Antitrust Exemption

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[TradeLens](#) – a blockchain based shipping consortium – received an important antitrust exemption last week from the [Federal Maritime Commission](#). The exemption allows five major container line shipping companies within the TradeLens consortium to cooperate in providing data for use on the TradeLens platform. The platform was developed by IBM and Maersk GTD. Generally speaking, the TradeLens platform offers APIs for digital communication of supply chain event data and allows for sharing of documents with permissioned parties in the supply chain, with the intent of lowering costs associated with documentation and bureaucracy. The associated [Cooperative Working Agreement](#) (the “Agreement”), which became effective on February 6, 2020 when the deadline for the Federal Maritime Commission to reject the Agreement passed without incident, enables the various container line parties that are signatories to the Agreement to exchange information related to supply chain events and collaborate on further developing the platform without fear of antitrust exposure under federal law (e.g., the U.S. Shipping Act of 1984, as amended).

Under the Agreement, the parties are expressly permitted to discuss the “terms and conditions of the Parties’ provision of data to the platform, permitted uses of such data, and input into products and services to be offered on the [TradeLens platform]....”, as well as the terms surrounding the placement of bills of lading and similar documents on the blockchain. The Agreement also authorizes the parties to collaborate on the data provided to the TradeLens developers and on establishing terms governing the storage, protection and use of data related to the operation of the platform. The Agreement carves out certain marketplace competition-related information from the antitrust exemption, however. For instance, the Agreement does not authorize the parties to discuss “vessel capacity to be deployed by any of them” or terms and conditions or rates and charges related to providing ocean transportation services to their customers.

It is not surprising that we are seeing continued deployment of blockchain in the supply chain space, given the potential benefits of cost reduction, improved security of transactions and the increased ability to use data analytics to optimize distribution and logistics networks. Still, as we've previously discussed in two of our Practice Notes, [Blockchain and Supply Chain Management](#) and [Best Practices: Smart Contracts](#), and in various posts on our blog www.blockchainandthelaw.io, despite the potential advantages of adopting blockchain solutions in supply chains, legal and practical concerns need to be appropriately addressed for participants to fully realize those benefits. Among those concerns, antitrust is front and center. When companies decide to test or operate a supply chain blockchain solution, it is necessarily a collaborative affair, raising potential antitrust issues (particularly when competitors within the same industry are collaborating and sharing data about their operations). Thus, as the TradeLens Agreement illustrates, the success of a blockchain initiative depends not only on the technology but also on resolving some important legal issues to allow the necessary collaboration and interoperability.

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- **Jeffrey D. Neuburger**
Partner