RESPONSES OF AMERICAN CRUISE LINES, INC.
TO QUESTIONS FOR THE RECORD
FEDERAL MARITIME COMMISSION
HEARING ON
PASSENGER VESSEL FINANCIAL RESPONSIBILITY
March 3, 2010

The Federal Maritime Commission heard testimony on March 3, 2010 from passenger vessel operators, including American Cruise Line, Inc., and cruise industry associations concerning the benefits and challenges of the Commission's financial responsibility requirements. The following are questions for which the Commission sought further feedback to facilitate its consideration of this matter. The following are the further responses of American Cruise Lines, Inc.

Questions of Chairman Lidinsky:

Question 1. For each cruise operator that used a surety bond to meet its financial responsibility requirements, how much did it cost to maintain the bond in 2009, and how much do you anticipate it will cost in 2010?

American Cruise Lines Answer: This information is confidential and proprietary.

Question 2. How many passengers do your cruises that are subject to the FMC's financial responsibility requirements serve in a year?

American Cruise Lines Answer: This information is confidential and proprietary.

Question 3. What is your average fare per passenger for cruises that are subject to the FMC's financial responsibility requirements?

American Cruise Lines Answer: This information is confidential and proprietary.

Question 4. What assessment or measure should the Commission use or look to in an effort to gauge the financial strength and bankruptcy risk of a cruise operator, who may be a private or foreign company? What should the Commission use to ensure a reliable indication of credit risk without having to hire a team of industry and financial analysts?

American Cruise Lines Answer: We recommend that the Commission consider each cruise operator's financial strength based on its annual audited financial statements. Certifications of discrete financial issues (simple credit ratios) could be required on a periodic basis in prescribed format as is commonly required by lenders without hiring financial analysts.

Question 5. What percentage of unearned passenger revenues (UPR) do credit card companies require you to set aside or protect? What protections for that amount are required to make sure that it is not spent or obligated? What does that protected amount cover? Does it include nonperformance of a cruise, airfare, and/or other costs or reimbursements?

American Cruise Lines Answer: Credit card companies do not now require that American Cruise Lines set aside or protect any UPR.

Question 6. Historically, we understand that credit card companies have reimbursed passengers after cruise line bankruptcies even when their original payment was outside the window established by the Fair Credit Billing Act. Are you aware of any contractual obligation for credit card companies to reimburse for nonperformance? Do the credit card companies make any commitments to cruise operators in exchange for the cruise operator setting aside a portion of UPR for the event of nonperformance?

American Cruise Lines Answer: American Cruise Lines has no experience with these practices or requirements.

Question 7. What percentage of your passengers obtain travel insurance that covers cancellation of a cruise because of nonperformance? What percentage of that travel insurance is obtained from a third party as opposed to the cruise operator itself?

American Cruise Lines Answer: American Cruise Lines does not recommend or require travel insurance covering cancellation. We are unaware of any amounts of travel insurance that our passengers obtain from third parties.

Question 8. On October 19, 2001, American Classic Voyages declared bankruptcy. Were all passengers fully reimbursed following that bankruptcy? How long did it take for the passengers to be reimbursed if they did not use credit cards?

American Cruise Lines Answer: American Cruise Lines is unaware of this information.

Question 9. If a cruise operator argues for current or reduced bonding or escrow obligations due to its financial health, at what point should a company be required to set aside more UPR for nonperformance? If unforeseen events or economic conditions cause an operator financial hardship, would increasing that operator's financial responsibility requirements at that time be opposed as adding to the hardship?

American Cruise Lines Answer: American Cruise Lines supports protection of overnight cruise line passengers by requiring operators to provide adequate security for UPR. The present system discriminates against small US flag operators regardless of their financial health. Instead of fixing the bonding and escrow requirement at 110% of UPR up to $15 million, the Commission should reduce the bonding or escrow requirement to 40% of UPR for operators which enjoy sound financial health. The same standard should apply equally to both larger operators and small operators. While unforeseen adverse events or bad economic conditions might cause an operator some hardship which additional financial responsibility requirements might increase, at least the system would apply equally to all operators and would not discriminate against small US flag operators as does the present system. Under no circumstances should the present $15 million discriminatory UPR cap be increased, as this would only aggravate the cap's unfair and damaging impact on small US flag operators.

Question 10. If a large cruise operator fails while holding a surety bond that represents only 3% to 5% of its UPR, and passengers are not fully reimbursed, what would be your response to critics who argue that the Commission's financial responsibility requirements were too lax?

American Cruise Lines Answer: Critics of the present system who argue that the system does not address the fundamental financial health of overnight cruise vessel operators would be correct. The current system discriminates against small US flag operators by capping the UPR to be set aside at the fixed amount of $15 million without adequately protecting the overnight passengers of large cruise operators. Instead of fixing the bonding and escrow requirement at 110% of UPR up to $15 million, the Commission should reduce the bonding or escrow requirement to 40% of UPR for operators which enjoy sound financial health. The same standard should apply equally to both larger operators and small operators. Under no circumstances should the present $15 million discriminatory UPR cap be increased, as this would only aggravate the cap's unfair and damaging impact on small US flag operators.

Question 11. Is it your position that, despite inflation and all of the changes in the industry, the Commission should go beyond twenty years without making an adjustment to its financial responsibility protections? What would happen to a cruise operator that went twenty years without adjusting its fares?

American Cruise Lines Answer: The problem is not the length of time since the last change; the problem is that the current regulations based on a 110% UPR requirement up to a fixed UPR cap are fundamentally flawed and inappropriate. *See* Answers to Question 9, 10, and 14.

Question of Chairman Lidinsky and Commissioner Brennan:

Question 12. Please describe your "booking window." How far in advance do your passengers book their cruises, on average? What do you require for a deposit from your passengers? How far in advance do you require payment of the passenger's fare, or of portions of the passenger's fare?

American Cruise Lines Answer: On average American Cruise Lines' passengers book approximately 145 days in advance, at which time they must pay a deposit. The final payment is due 60 days prior to departure.

Questions of Commissioner Dye:

Question 13. What types of reasonable information regarding passenger travel insurance and credit card protections for nonperformance of a cruise could your company report to the Commission which would assure repayment to passengers in the event of nonperformance?

American Cruise Lines Answer: None. American Cruise Lines does not gather information regarding our passengers' travel insurance covering an operator's non-performance of a cruise. We also do not have special agreements with credit card companies regarding refunds to our passengers.

Question 14. How could the Commission amend its financial responsibility regulations to provide regulatory relief to those passenger vessel operators who have unearned passenger revenue less than 15 million dollars without raising the Commission's current 15 million dollar cap?

American Cruise Lines Answer: The Commission should promulgate regulations that require submission of annual audited financial statements and quarterly reports of UPR by each cruise line operator subject to the regulations. Instead of fixing the bonding and escrow requirement at 110% of UPR up to $15 million, the Commission should reduce the bonding or escrow requirement to 40% of UPR for operators which enjoy sound financial health. The same standard should apply equally to both larger operators and small operators. Under no circumstances should the present $15 million discriminatory UPR cap be increased, as this would only aggravate the cap's unfair and damaging impact on small US flag operators.

Question 15. How could the Commission amend its regulations, which currently require coverage of no less than 110 percent of the highest unearned passenger revenue amount of the previous two fiscal years, to better reflect the highly volatile unearned passenger revenue of seasonal passenger vessel operators?

American Cruise Lines Answer: *See* Answers to Question 9, 10, and 14.

Question 16. Do you believe the Commission continues to need a 10 percent fixed amount of unearned passenger revenue in escrow accounts filed at the Commission by passenger vessel operators?

American Cruise Lines Answer: No. The use of escrow accounts may mask credit problems. The problem is that the current regulations based on a 110% UPR requirement up to a fixed UPR cap are fundamentally flawed and inappropriate. *See* Answers to Question 9, 10, and 14.

Question 17. How could the Commission amend its passenger vessel operator financial responsibility regulations to better reflect the existence of current Federal consumer credit card protections?

American Cruise Lines Answer: American Cruise Lines has no position on this issue.

May 3, 2010

Charles A. Robertson
President and CEO
AMERICAN CRUISE LINES, INC.
741 Boston Post Road, Suite 200
Guilford, CT 06437
(800) 366-6740

CC: David McI. Williams, Esq.
Gorman & Williams
Charles Center South, Suite 900
36 South Charles Street
Baltimore, Maryland 21201-3114
(410) 528-0600