



**CRUISE LINES
INTERNATIONAL
ASSOCIATION, INC**

May 3, 2010

Ms. Karen V. Gregory
Secretary
Federal Maritime Commission
800 North Capitol Street, NW -- Room 1046
Washington, DC 20573-001

RE: Passenger Vessel Financial Responsibility Post Hearing Questions

Dear Ms. Gregory:

Enclosed is the Cruise Lines International Association's (CLIA) redacted response to the March 3rd post hearing questions. CLIA respectfully requests that our response to question 3 be treated as confidential. We are submitting both a redacted and confidential version of our responses.

If you need any additional information, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink that reads "Terry J. Dale". The signature is written in a cursive, slightly slanted style.

Terry Dale
President and CEO
Cruise Lines International Association

QUESTIONS FOR THE RECORD
FEDERAL MARITIME COMMISSION HEARING
PASSENGER VESSEL FINANCIAL RESPONSIBILITY
MAY 3, 2010

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

Questions of Chairman Lidinsky:

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?

CLIA Answer: CLIA does not have this information. This question is best answered by individual cruise lines.

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

CLIA Answer: In 2009, CLIA's twenty-five member cruise lines carried 8.9 million passengers that embarked at a U.S. port. CLIA members represent 97 percent of the cruise capacity marketed from North America.

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

CLIA Answer: **CONFIDENTIAL**

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?

CLIA Answer: This question is best answered by individual cruise lines.

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?

CLIA Answer: CLIA does not have this information. This depends on commercial arrangements between the cruise line and credit card companies.

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?

CLIA Answer: CLIA does not have this information. This also depends on commercial arrangements between the cruise line and credit card companies.

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?

CLIA Answer: CLIA surveyed its travel agent members to compile the most recent and accurate information on travel insurance. According to the survey, 71.5% of passengers purchased travel insurance. Of those, 60.6% purchased third party/non-cruise insurance policies. CLIA also reached out to some of its executive partners who provide third-party travel insurance. Most of the cruise policies sold by these third-party companies include voyage nonperformance refund coverage. Although these companies may not provide a comprehensive picture of the entire third-party travel insurance industry, we believe they provide a reasonable snapshot as it relates to the cruise travel.

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?

CLIA Answer: CLIA's understanding is that all passengers did receive full refunds through the bankruptcy court process and credit card issuer Fair Credit Billing Act (FCBA) refunds. The Bankruptcy Court issued its "Findings of Fact, Conclusions of Law and Order Confirming Second Amended Joint Plan of Liquidation of American Classic Voyages Co., et al." on February 6, 2003. The "Disclosure Statement with Respect to Debtor's Second Amended Joint Plan of Liquidation," dated January 7, 2003, lays out the distribution of claims based on class. The Plan expressly describes the reimbursement of all of AMCV's various cruise operations and contemplates that reimbursement will be sufficient to cover all consumer priority claims (Classes 1A, 1B, 1C, 1D, 1E, 3 and 4). In addition, the Order finds that the priority claims described above "are not impaired by the Plan" and that the classes are deemed "to have accepted the Plan." CLIA understands that those passengers without access to FCBA refunds recovered 100 percent of their fare payments through the bankruptcy process within 17-18 months after the AMCV bankruptcy filing.

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?

CLIA Answer: This question is best answered by individual cruise lines.

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?

CLIA Answer: The Commission could state that Congress had expressly changed the law in 1993 to provide that the statute does not require 100 percent collateral for all UPR. A requirement for 100 percent security would result in duplicative coverages that would be a needless burden on the entire industry, causing unnecessary increases in cruise fares and loss of employment and innovation with no meaningful reduction in the risks. The Commission studied this situation carefully and found that for the industry as a whole, including large companies that have more sizable UPR, passengers have multiple protections that work in combination with each other. The Commission's security requirements, plus the Fair Credit Billing Act refunds from credit card issuers that cover the majority of UPR, as well as the Bankruptcy Code priority of \$2,425 per passenger, appeared to be sufficient to assure there is no undue risk to UPR. The intent of

Congress was not to provide an air-tight coverage at extreme costs, but to assure reasonable protection. The regime envisioned by Congress has worked successfully for the previous four decades with no losses. While cruise lines are subject to the security requirements under Public Law 89-777 and the Commission's regulations, airlines embarking passengers in the United States are not subject to any equivalent security requirement administered by any regulatory agency to assure refunds to passengers in the event of non-performance.

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?

CLIA Answer: The intent of Congress in the last amendment to Public Law 89-777 was to provide flexibility so the Commission could match its regulatory provisions to the actual risks in the marketplace. The risk of default is lower than in the early days of the industry, and the Commission can manage the risk successfully with appropriate means that will not drive up fares or cost industry jobs needlessly. The current financial responsibility regime has worked well to ensure that no passengers have lost their cruise deposits due to nonperformance or failure of a cruise line – despite the 9/11 induced company failures and the recent economic recession.

Cruise fares are not driven by inflationary increases but by market competition. Since 1991, when the current \$15M cap was set, cruise fares for equivalent sailings have actually remained steady, measured in either constant dollars or current dollars. Prices for many popular itineraries have actually declined in certain leading markets such as the Caribbean and Pacific Northwest. Additionally, the percentage of an average household or wage-earner's annual income that an average cruise fare now represents is far lower than it would have been in 1991.

Question of Chairman Lidinsky and Commissioner Brennan

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?

CLIA Answer: CLIA does not have this information. This question is best answered by individual cruise lines.

Questions of Commissioner Dye

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?

CLIA Answer: As a general matter, virtually all passengers booking cruises are informed by the cruise line or travel agents that travel insurance is available and the passenger is given a convenient means of securing a policy. The information provided complies with applicable law and will clearly state what is covered.

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?

CLIA Answer: CLIA recommends that the FMC lower the required coverage from 110% to 100% for vessel owners whose UPR is less than \$15 million.

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?

CLIA Answer: CLIA recommends that the FMC consider using the lines' unearned passenger revenue average of the past two years rather than the highest UPR.

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?

CLIA Answer: CLIA recommends that the FMC lower the required coverage from 110% to 100% for vessel owners whose UPR is less than \$15 million.

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?

CLIA Answer: The Commission could add flexibility in regard to the amount of UPR a cruise line must cover with a bond, guaranty or escrow to provide for some offset if there is substantial over-collateralization based upon credit card issuers' requirements for hold-backs or letters of credit and/or due to significant seasonal fluctuations in the line's advance fare deposits.