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Glacier Bay.
CRUISELINE

May 22.2002

Bryant L **VanBrakle,** Secretary
Federal Maritime **Commission**
800 North Capitol Street, NW, Room 1046
Washington, D C 20573-0001

Re: **Notice** of Proposed Rulemaking **(NPRM),** Docket No 02-07

Gentlemen.

Please accept these comments in response to the above referenced NPRM.

Background

Our company is Glacier Bay Park **Concessions,** Inc doing business as Glacier Bay **Cruiseline.** We are a wholly owned subsidiary of Goldbelt, Inc., an Alaska **native** shareholder corporation. We operate three small passenger vessels, two of which are required to comply with 46 CFR Part 540 regarding **financial responsibility** for nonperformance of transportation. Our vessels are all US flag **ships** and carry Certificates of Inspection from the US Coast Guard. Virtually all our employees are US **citizens,** both on and off the **ships.** Our employees and the company pay all US and local taxes. We pay for and carry workers **compensation** coverage for shore based employees **in** Washington and Alaska and for P&I coverage for our **marine** employees subject to US general **maritime** law and the Jones Act.

We operate **in** an extremely regulated **environment** and are **subject** to regulations of multiple agencies including: Federal **Maritime Commission,** Federal **Communications** Commission, US Coast Guard, State of Washington, State of Alaska, and the **International** Maritime Organization (IMO) **SOLAS,** MARPOL and SCTW are some of the regulatory products of the IMO

Our employees are based in Washington, Alaska, and **onboard** our **ships This** puts us **in** the **position** of **complying** with three sets of workers compensation rules under the various regulations of two states and the federal government.

The administrative burden of **keeping** track of and complying with this maze of regulatory requirements is extremely **high** in view of **the** small size of **administrative** staff that we can afford **in** a company **this size.**

Compare this to the situation for the large **foreign** flag ships operating **in** our area of Alaska. They only need to comply **with** the rules of **IMO.** Period. They are not subject to any of the US laws applying to workers compensation, fair labor practices or minimum wages. They have taken the position that they are not subject to the requirements of ADA in regard to both employees and passengers With a **simplified** regulatory agenda, their administrative costs are far less than ours. By employing foreign employees who work for far less than our American crew, their labor costs are also less than ours. By not paying US taxes, they have a significant business advantage By operating much larger ships, they gain the advantage of economy of scale The option of operating large ships is not attractive to most US operators because of the regulatory issues involved. US regulations make it prohibitively costly to operate US flag ships that are over 100 gross tons under our standard measurement system.

With all this being said, it would seem on the face of things that we don't stand a chance competing against the large foreign flag ships. And, simply on the basis of price, this is true. Our success has been in being able to offer a travel experience that is totally different from the big ships. The ships, being smaller, are able to navigate close to shore and in closer quarters with the scenery and wildlife, giving passengers a unique experience unavailable on a large cruise ship With our American crew and our wilderness focused experience, passengers on our ships have experiences that they remember for the rest of their lives. The experience on a large cruise ship, however, could be duplicated in most parts by a visit to Las Vegas.

We do have a great deal of pride in the travel experience we offer and firmly believe it is the best product on the market. However, our costs being so much higher, we must charge a fare that is always a good deal higher than what a passenger will pay on a large ship, for all the reasons cited above. This makes it a tough sell for a passenger wanting to book a cruise. It is not hard to convince the market that we have a great product, but it is very hard to continue raising prices in the face of continuing market pressure from foreign operators who enjoy such a huge competitive advantage Most of the market simply cannot afford our product and they choose the lowest price out there

Notice of Proposed Rulemaking

This Notice of Proposed Rulemaking in regard to Financial Responsibility for Nonperformance poses regulatory changes that will cause considerable harm to our company If implemented as written, it could very well be the proverbial straw on the camels back. As noted above, we are severely handicapped in the marketplace with the unfair advantages of the competition. To add the additional expense of purchasing surety bonds, locking up funds in escrow, or buying insurance will likely have an extremely negative effect on our financial situation. To do this in the middle of an operating season, well after our budget planning is complete, gives us no chance to plan for these expenses and build them into our fare pricing so as to pass on some of the cost to the consumer All of the cost will come straight out of our bottom line for the current fiscal year

The rule changes being proposed appear to our eyes to be a knee-jerk reaction to the recent demise of the US operator, American Classic Voyages (AMCV). This company blamed its troubles on the September 11 attack. That unfortunate event did have a negative effect on the industry in general but AMCV was in trouble long before that. After a long and stable history of sound operations in well established markets, they had embarked on an aggressive expansion plan on three fronts, any one of which could have caused significant financial loss in the event of setbacks and, they experienced setbacks on all three. It is doubtful that they could have survived much longer even without the September 11 attack.

By comparison, our company and the other US operator with self-insured status, survived September 11 and continued with successful operations in a time of recession by laying off staff, trimming operations and ruthlessly cutting costs in every way possible By taking a no-nonsense approach to doing business, we are working our way successfully through an extremely hazardous time for all businesses in this country To get this far and be penalized for the poor management of another operator is singularly unfair

One factor mentioned by the Commission in the NPRM is their concern for the ". impending deployment of a substantial increase in cruise ship capacity" Implicit in this statement is the concept that too much capacity will dilute the market and force prices down, thus putting pressure on the two companies operating under the self-insured program. In fact, the increased capacity is in the form of new, very large cruise ships with capacity for two or three times the number formerly carried by the largest ships. While it is true that we compete with the large ships on the basis of price, our product is very different from theirs precisely because of the enormous size difference. As the new, vastly larger ships begin to take over more of the large ship market, they will actually compete less and less with us due to the fact that increasing numbers of passengers are seeking smaller ships for the more intimate, less crowded conditions. When the ocean behemoth is sitting nearly a mile away from the glacier in Alaska, their three thousand passengers will see our small ship only about a quarter mile away from the face of the glacier Many of them will want to see Alaska again, but next time on a smaller ship. So, paradoxically, the bigger ships of the future will help our business rather than hurt it

The NPRM, in its present form, contains no information regarding the timetable for implementation The assumption one must make is that the changes proposed will go into effect immediately upon adoption. An immediate implementation may likely have the exact effect on our business that is of such concern to the Commission. To impose this change in such a precipitous manner is not in the interests of the consumer whom you are trying to protect. We need time in order to budget for these additional expenses. Our prices for next year's cruise products are now in the process of being established so that we can prepare next year's catalog for publication. This is usually done by the middle of the current operating season. With this much lead time required, you can see how important it is that we have all the information we need in order to plan accordingly

Conclusion

We strongly urge the Commission to carefully consider our position in opposition to this NPRM. The NPRM will not protect the vast numbers of Americans traveling on foreign flag ships and will damage our ability to compete on an already uneven playing field.

At the very least, we ask that you do not implement this NPRM until 2004 or later in order to give us time to make necessary adjustments.

Sincerely,

Kevin M. Hill
General Manager
Glacier Bay Cruiseline

Cc: Congressman Don Young
Gary Droubay
Greg Dronkert