



12 April 2012

Tourism & Transport Forum (TTF) Submission to the House of Representatives Standing Committee on Infrastructure and Communications - Shipping Reform Bills Inquiry

TTF welcomes the opportunity to comment on the House of Representatives Standing Committee on Infrastructure and Communications - Shipping Reform Bills Inquiry. TTF has serious concerns about the impact of the legislation on the cruise ship sector. It appears to pay no regard to the unique nature of coastal trading for tourism purposes, and is exclusively focussed on the freight sector.

TTF represents the public policy interests of Australia's leading tourism owners, operators and agencies including the cruise shipping sector. This submission focuses on the aspects of the proposed legislation which impact on expedition cruise shipping.

TTF is concerned that the Australian cruise ship company, Orion Expedition Cruises will be adversely impacted by this legislation. In addition, the Committee should also consider the implications for two international companies proposing to establish expedition cruise operations in Australian waters from 2013. Indirectly, many tourism, accommodation, hospitality and retail operators in regional coastal communities will also suffer as a result of the limitations placed upon coastal trading for tourism purposes.

Expedition cruise operators already face a substantial regulatory burden in operating across state maritime borders, not imposed on larger international cruise ships over 5,000 tonnes. Currently, regulations require operators to comply with a complex and cumbersome licencing regime.

The tourism industry's concerns regarding the existing regulatory regime and initial exposure draft shipping reform legislation are detailed in the attached submission to the 2nd Exposure Draft Coastal Trading (Revitalising Australian Shipping) Bill, dated 5 March, 2012. Our concerns raised in this submission have not been addressed.

Additionally, TTF has new concerns that have emerged following the presentation of the Coastal Trading (Revitalising Australian Shipping) Bill 2012 to the Parliament in relation to the definition and interpretation of "Coastal Trading" under Subsection 7. **We believe that this section would effectively shut down the expedition cruise sector from July 2012.**

The Coastal Trading definitions in the Explanatory Memorandum released on 22 March 2012 states that:

"A vessel which carries passengers who hold through tickets to and from a port outside Australia. If such vessel disembarks the passengers at a port in Australia, the vessel is not exempt from the meaning of 'coastal trading' unless such disembarkation at a port in Australia is for transit purposes only"

This definition effectively forbids operators such as Orion from carrying any passengers from an international port, disembarking them at their final port in order remain in Australia either to continue touring, or return to their residence.

Currently, passengers holding tickets to or from Australia are able to transit through a state to arrive at their final port of disembarkation, regardless of whether they then leave Australia or continue to travel overland to other Australian destinations.

The commercial implications of the language in the Explanatory Memorandum for expedition cruises, such as the those operated by Orion, are alarming – approximately 50 per cent of Orion cruises are operated on the basis of “through tickets” (Current Navigation Act 1912, 7(1)(a)), and a large proportion of passengers– and we fear this interpretation will create an untenable situation, forcing Orion to stop selling cruises that have been on the market for the past 12 months, and effectively cease operating.

Further, TTF fears that this subtle but crucial change will place an unnecessary constraint on the growth of cruise shipping, at a time when destinations such as Tasmania, tropical North Queensland, the Top End and the Kimberley enjoy considerable economic benefits from cruise ships visiting local ports.

With both Noble Caledonia and Zegrahm Expeditions announcing recently that they will be bringing their small international flagged expedition vessels to Australia in 2013, the small ship cruise industry is on the verge of substantial growth. Noble Caledonia’s itineraries incorporate Tasmania, Victoria, New South Wales and Queensland, and Zegrahm are advertising that they will be offering expeditions in the Kimberley.

TTF notes that the prohibitive regulatory burden outlined above, and in the attached submission can be circumvented by extending the Cruise Ship Exemption for coastal trading licences to all cruise vessels over 500 tonnes, as per recommendation 2 below.

Recommendations:

- 1. Amend the interpretation and definition of “transit” as set out in section 7(2)(a) of the Coastal Trading (Revitalising Australian Shipping) Bill 2012 Explanatory Memorandum to allow for passengers to transit through a state to arrive at their final port of disembarkation, regardless of whether they then leave Australia or continue to travel overland to other Australian destinations.**
- 2. Consider the TTF submission made on 5 March to the 2nd Exposure Draft, calling on the Commonwealth to extend competitive neutrality for all segments of the Cruise Shipping Industry, and extending the Cruise Ship Exemption to all cruise ships over 500 tonnes, so that operators of small cruise ships such as Orion, Noble Caledonia, and Zegrahms can continue to promote tourism experiences in remote and regional Australia. A copy of the submission is attached.**

Please contact me if you wish to discuss this matter further.

Sincerely,


JOHN LEE
Chief Executive

SUBMISSION: EXPOSURE DRAFTS OF SHIPPING REFORM BILLS

2nd Exposure Draft Coastal Trading (Revitalising Australian Shipping) Bill

Tourism & Transport Forum (TTF) welcomes the opportunity to comment on the exposure drafts of the shipping reform bills released by the Australian government for public comment.

TTF represents the public policy interests of Australia's leading tourism owners, operators and agencies including the cruise shipping sector.

This submission therefore focuses on those aspects of the proposed legislation which impacts on cruise shipping.

At a time when tourism is facing a number of serious challenges, cruise shipping represents one of the few segments of the market that is growing strongly. In the current climate, it has become a vital component of Australia's tourism offering.

Cruise shipping is not only growing but diversifying. Smaller and expedition cruise shipping is an important and high-value segment of the market. Australian government policies should recognise and support this diversity, which ensures that Australia can offer domestic and international visitors a full range of product choices.

Cruise shipping makes a considerable economic contribution to the communities that are visited by cruise ships. The growth of expedition and smaller cruise ships has the potential to expand the reach of those economic benefits, particularly in regional areas, as such ships visit a wider range of ports than those that are restricted to major ports.

TTF has significant concerns that the proposed new legislative regime for coastal trading will hinder the growth of smaller and expedition cruise shipping. Instead of simplifying the current regulatory environment, the bill will place new hurdles in the way of the sector.

The bills appear to have been drafted with the primary intention of responding to the challenges faced by cargo shipping, without due regard to cruise shipping. The nature of cruise shipping is markedly different from the seaborne freight sector and the legislation needs to reflect the different needs of cruise ships.

TTF believes that the legislative and regulatory regime for cruise ships should be based on the following principles:-

- **Competitive neutrality:** all sectors of the cruise shipping market should be treated equally.
- **Certainty:** cruise shipping requires regulatory certainty to plan itineraries and promote investment in the sector. The legislation must particularly recognise that cruise ship itineraries are planned several years in advance.

- Product differentiation: the unique needs of the cruise shipping sector and the obvious differences between vessels carrying cargo and passengers must be reflected in the proposed legislative regime.

Competitive Neutrality

TTF strongly believes that many of our concerns about the impact of the proposed legislation could be overcome by extending the exemption from the temporary licencing regime provided to cruise ships over 5,000 tonnes.

Such an exemption is justified to ensure that competitive neutrality is provided between different segments of the cruise shipping industry. TTF suggests that the exemption be extended to all cruise ships over 500 tonnes.

It makes little sense that large cruise ships benefit from the exemption while smaller ships are conversely disadvantaged through the application of the 5,000 tonne threshold. The threshold particularly impacts Australian expedition cruise ship operators.

TTF notes that lowering the threshold to 500 tonnes was raised in the discussion paper released by the Minister in 2010 and was supported by a range of operators and representative organisations, including the Australian Shipowners Association and Shipping Australia.

Certainty

By its very nature, the cruise shipping industry needs the ability to plan, publish and promote its cruise schedules several years in advance. Tourists make decisions on cruise-based holidays with longer lead times and the regulatory regime needs to reflect consumer patterns in this regard.

TTF is therefore concerned about the uncertainty inherent in a system that relies on 12 month temporary licences. It would mean that cruise shipping operators not covered by the licence exemption will be advertising and selling cruises without the certainty of knowing that a licence will be available. That uncertainty is exacerbated by the nexus between general licences and temporary licences and the risk that a general licence holder will be able to mount a case to undertake the trade proposed by a temporary licence applicant.

In the absence of a broader exemption, the legislation must better reflect the unique needs of the cruise shipping industry to plan itineraries several years in advance.

Product Differentiation

TTF is concerned that the proposed legislation fails to accommodate and recognise the significant differences between coastal trading for cargo and passengers.

For example:-

- The requirement that a temporary licence holder undertake 10 voyages per licence fails to reflect the fact that many cruise ships may only conduct one or two coastal voyages as part of a larger itinerary.
- Requirements that the Minister will need to assess the standards of food, amenities and crew of different cruise ships when determining whether to grant a temporary licence fails to recognise that different ships will seek to serve different consumer and market demands.

- Operators will be expected to detail the number of passengers to be carried by a ship at the time of a temporary licence application. Changes to this number will require an application for a variation. It is impossible to expect cruise ship operators to be able to predict their final passenger numbers in their initial application. Not allowing some flexibility will simply add more red-tape to the licencing regime.

Conclusion

TTF recommends that the government undertake further consultation with the cruise ship industry to ensure that the legislation meets the needs of this important part of the tourism sector.

In doing so, the government should seek to ensure that the proposed new legislative regime helps rather than hinders one of the great success stories of Australian tourism.

While some of the problems associated with the proposed licencing regime may be addressed by amendment, TTF strongly believes that the simplest and fairest approach would be for the government to extend the current exemption provided to larger cruise ships to all cruise ships over 500 tonnes.

 **John Lee**
Chief Executive

5 March 2012