



17 October 2022

[redacted] and [redacted]

Australian Human Rights Commission  
Level 3, 175 Pitt Street  
Sydney NSW 2000

By email: [legal@humanrights.gov.au](mailto:legal@humanrights.gov.au), [redacted]@humanrights.gov.au,  
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Dear [redacted] and [redacted]

**Application for Further Exemption under Section 44(2) of the *Age Discrimination Act 2004* (Cth) (the Act)**

We refer to:

1. Carnival's previous applications to the Commission for exemptions under section 44(1) and section 44(2) of the Act; and
2. Carnival's current exemption under section 44(2) of the Act which was granted by the Commission on 17 October 2019 and expires on 17 October 2022 (**Last Exemption**).

We note as follows:

1. The first exemption sought by Carnival was granted by the Commission on 21 December 2010 (**First Exemption**). The First Exemption commenced on 23 December 2010 for a period of 2.5 years, expiring on 22 June 2013.
2. A subsequent exemption sought by Carnival was granted by the Commission on 15 November 2013 (**Second Exemption**). The Second Exemption also operated for a period of 2.5 years, expiring on 15 May 2016.
3. A third exemption sought by Carnival was granted by the Commission on 22 June 2017 (**Third Exemption**). The Third Exemption operated for a period of 1 year, expiring on 22 June 2018.
4. As noted above, the Last Exemption was granted by the Commission on 17 October 2019. The Last Exemption operated for a period of 3 years and is due to expire on 17 October 2022.

Carnival now seeks a further exemption under section 44(2) of the Act for an additional period of 3 years on the same terms as the Last Exemption (**Further Exemption**). The proposed terms of the Further Exemption are set out at Error! Reference source not found..

Carnival considers that its age restricted cruises policy has been successful in managing incidents of excessive behaviour. Carnival's intention in seeking a further exemption is to continue operating in a responsible manner in line with community expectations. Carnival wishes to acknowledge the role

and contribution of the Australian Human Rights Commission in supporting Carnival's continued commitment to the health, safety and wellbeing of cruise passengers.

In seeking the Further Exemption, Carnival does not admit that the Act applies to its operations, to the extent that these operations are conducted on cruise ships which are not within the jurisdiction of the laws of the Commonwealth of Australia. Carnival reserves all of its rights in this respect.

## 1. Background

### Reasons for Original Application for First Exemption and Subsequent Applications for Second Exemption, Third Exemption and Last Exemption

- 1.1 Carnival is Australia's leading cruise company and represents 7 cruise brands (including P&O Cruises Australia, Princess Cruises and Carnival Cruise Line) in the Australian and New Zealand markets.
- 1.2 Prior to obtaining the First Exemption in 2010, Carnival was experiencing a significant increase in the amount of alcohol-related security incidents involving large numbers of "Schoolies" on its cruises during the traditional Schoolies period of 1 November to 31 January (**Schoolies Period**). These incidents involved serious risks to the health and safety of passengers, crew, and also the Schoolies participants themselves.
- 1.3 Carnival attempted to reduce the number and severity of these incidents by obtaining advice from security experts and implementing stringent security measures. These included:
  - (a) increasing restrictions to the access and consumption of alcohol (including refusing to serve alcohol to persons involved in incidents, de-activating alcohol purchasing cards, providing unique wrist bands to passengers who were above-drinking age, and attempting to police the secondary supply of alcohol);
  - (b) tightening its policies and procedures in relation to the access and consumption of alcohol;
  - (c) enhancing the training and instruction of its crew in relation to the above procedures;
  - (d) increasing its pre-boarding and on-boarding searches for contraband alcohol; and
  - (e) increasing its security numbers and presence.
- 1.4 Despite these measures, Carnival continued to experience a high level of Schoolies alcohol-fuelled incidents. In particular, Schoolies participants continued to find methods of circumventing Carnival's security measures by either smuggling alcohol on board, obtaining alcohol through above-drinking age passengers or drinking to excess before boarding the ship. There were also incidents where Schoolies' participants pre-arranged fights and rioting which had not necessarily been fuelled by alcohol.
- 1.5 These incidents continued even after Carnival made an informed decision to discontinue promoting and operating summer voyages to school-leavers during the Schoolies Period. After 2006, there continued to be high levels of school leavers seeking to book cruises and Carnival continued to experience alcohol-fuelled and other "Schoolies" incidents. Schoolies participants would organise their own large-scale events on Carnival ships through viral emails and messaging.

- 1.6 As a result of the above, Carnival sought the First Exemption from the Commission on 7 April 2009 in order to restrict the ability of persons under 21 years of age to take part in cruises without a parent or guardian during the Schoolies Period.
- 1.7 Following significant compromise from Carnival, the Commission granted the First Exemption on 21 December 2010 which permitted Carnival to lawfully restrict the ability of persons under 19 years of age to take part in cruises without a responsible adult aged 19 or above (**Responsible Adult**) during Schoolies Periods. The reduction in the age limit of Carnival's First Exemption to persons aged under 19 years was considered to be appropriate by the Commission in the circumstances and Carnival relies on the reasons published by the Commission as part of its decision of 21 December 2010. In seeking the Further Exemption, Carnival also relies on the reasons published by the Commission as part of its decision to grant the Second Exemption on 15 November 2013, the Third Exemption on 22 December 2017 and the Last Exemption on 17 October 2019.

## **2. Reasons for Application for Further Exemption**

- 2.1 Since the Commission granted the First Exemption, Carnival has observed a significant decrease in the number of alcohol-related security incidents during the Schoolies Period. Alcohol related security incidents are incidents involving excessive and unacceptable behaviour where alcohol is a contributing factor.
- 2.2 Carnival is of the view that such a decrease is attributable to the First Exemption granted by the Commission in 2010, the Second Exemption granted by the Commission in 2013, the Third Exemption granted by the Commission in 2017 and the Last Exemption granted by the Commission in 2019.
- 2.3 For example:
- (a) On a cruise in December 2005, Carnival recorded 457 separate security incidents on one vessel, during one cruise.
  - (b) In December 2012, across all four Carnival vessels and across all cruises for that month, a total of 67 security incidents were recorded. Carnival also observed a general decrease in the number of customer service complaints from passengers onboard cruises during Schoolies Periods in relation to excessive behaviour engaged in by passengers aged under 19 years.
  - (c) In December 2014, across six Australian home-ported Carnival vessels and across all cruises on those vessels for that month, a total of 18 security incidents were recorded.
  - (d) In December 2015, across six Australian home-ported Carnival vessels and across all cruises for that month, a total of 5 security incidents were recorded.
  - (e) In December 2017, across seven Australian home-ported Carnival vessels and across all cruises for that month, a total of 13 security incidents were recorded.
  - (f) In December 2019, across three Australian home-ported Carnival vessels, a total of 24 security incidents were recorded. We are currently obtaining the number of security incidents on a further six Australian home-ported Carnival vessels and will provide this information to the Commission shortly.
- 2.4 Carnival believes that each of the First, Second, Third and Last Exemptions have served to:

- (a) discourage Schoolies' participants from making bookings for the purpose of engaging in improper behaviour and under-age drinking;
  - (b) reduce the likelihood of unmanageable large-scale Schoolies events organised through, for example, social networking; and
  - (c) promote an understanding that Carnival cruises will not tolerate improper behaviour and under-age drinking on its cruise-ships as part of Schoolies celebrations.
- 2.5 Carnival also believes that the presence of a Responsible Adult acting as an authority figure for persons under the age of 19 during the Schoolies Period (**Responsible Adult Requirement**) has served as an effective control mechanism to minimise incidents of underage drinking and other inappropriate behaviour.
- 2.6 Carnival wishes to continue to prioritise the health, safety and security of its passengers generally, and in particular during the Schoolies Period.
- 2.7 As Schoolies celebrations continue to occur every year during the Schoolies Period, Carnival seeks a Further Exemption in order to continue to lawfully restrict the number of persons aged under 19 years to take part in cruises without a parent or guardian during the Schoolies Period.
- 2.8 Carnival considers that the Responsible Adult Requirement is a key feature of its broader package of measures designed to minimise excessive behaviour. In relation to incidents of excessive behaviour among guests aged 17 to 19 years specifically during the traditional 'Schoolies' period (i.e. from 1 November to 31 January annually), Carnival believes that the Responsible Adult Requirement has driven the decline in security incidents.
- 2.9 As evidenced by the figures in 2.3 above, Carnival now experiences a small handful of security incidents across its Australian home ported ships each month during the Schoolies Period. For completeness, Carnival does not consider these incidents to be attributable to large scale Unauthorised Events or excessive behaviour engaged in by groups.
- 2.10 In seeking the Further Exemption, Carnival again wishes to emphasise the primacy of the health and safety of its crew and passengers. **These health and safety risks are compounded by the following factors which remain as relevant today as they did at the time Carnival applied for the First Exemption:**
- (a) the shipboard environment is unique;
  - (b) whilst at sea, Carnival ships do not have immediate access to shoreside medical facilities or emergency services. Onboard medical centres are staffed with skilled medical professionals but the services offered are naturally more limited than those offered at shoreside hospitals;
  - (c) whilst at sea, Carnival cannot call upon an immediately available police presence and Australian police will not have universal jurisdiction;
  - (d) onboard security personnel are highly trained and proactive, however there are practical limitations to security personnel numbers which Carnival can accommodate on its cruises;
  - (e) onboard security personnel have limited rights to detain, search and control in terms of managing violent and improper behaviour, and there are limited facilities in terms of detaining passengers who are a threat to themselves and others;

- (f) from past experience, Schoolies' participants have shown a remarkable ingenuity to circumvent procedures implemented by Carnival to restrict access to and the consumption of alcohol; and
- (g) from past experience, Schoolies' celebrations have involved large groups organised through school or social networking, who then seek to run events/gatherings on board that are difficult to manage.

2.11 Carnival notes that the Commission, in publishing its:

- (a) Notice to Grant a Temporary Exemption to Carnival on 21 December 2010 (**2010 Notice**);
- (b) Notice to Grant a Temporary Exemption to Carnival on 15 November 2013 (**2013 Notice**);
- (c) Notice to Grant a Temporary Exemption to Carnival on 22 November 2017 (**2017 Notice**);
- (d) Notice to Grant a Temporary Exemption to Carnival on 17 October 2019 (**2019 Notice**),

has provided reasons as to why it was appropriate to grant Carnival the First, Second, Third and Last Exemptions. We **enclose** each of these Notices for your convenience as **Schedule B**.

2.12 Carnival seeks to rely on these reasons in this application for a Further Exemption. The foundation for Carnival applying for, and being granted the First, Second, Third and Last Exemptions has not changed.

### **3. Key Criteria for Assessment of Application**

#### **2010 Temporary Exemptions under the Age Discrimination Act Commission Guidelines (Guidelines)**

3.1 We refer to the Guidelines for applications for exemptions under section 44 of the Act which are published by the Commission. We note that these Guidelines stipulate a number of criteria to be addressed in applications for exemptions under section 44 of the Act.

3.2 Carnival has previously addressed a number of these criteria in its:

- (a) application for the First Exemption dated 7 April 2009 (**First Application**);
- (b) application for the Second Exemption dated 21 June 2013 (**Second Application**);
- (c) application for the Third Exemption dated 28 October 2016 (**Third Application**); and
- (d) application for the Last Exemption dated 20 June 2018 (**Last Application**).

Carnival relies on the submissions and evidence which it made in relation to the First, Second, Third and Last Applications. A copy of the First, Second, Third and Last Applications are **enclosed** for your convenience at **Schedule C**.

#### **What circumstances or activities are to be covered by the exemption?**

3.3 In effect, Carnival seeks an extension of the Last Exemption on the same terms (see **Error! Reference source not found.**) for a further period of three years. Carnival believes that the Last Exemption strikes an appropriate and reasonable balance between genuine health and safety concerns, and the rights of persons aged under 19 years of age.

- 3.4 Carnival seeks to restrict the ability of persons aged under 19 years of age to take part in Carnival cruises in the absence of a Responsible Adult during a limited period generally associated with Schoolies' celebrations. For the period 1 November to 7 January each year, Carnival will permit a quota of 20 passengers per cruise under the age of 19 and not accompanied by a Responsible Adult. For the period 8 January to 31 January each year, Carnival will permit a quota of 60 passengers per cruise under the age of 19 and not accompanied by a Responsible Adult.
- 3.5 Such a restriction will continue to enable Carnival to control the size of events which are commonly associated with school leavers during the Schoolies Period, and increase its ability to manage these events (including alcohol consumption at these events) without a risk to health and safety.
- 3.6 Carnival wishes to have the following matters covered in the Further Exemption:
- (a) Carnival has implemented passage terms and conditions which seek to prevent events which may be large in scale and are associated with excessive and/or anti-social behaviour, including the abuse of alcohol (**Unauthorised Events**). Schoolies celebrations are an example of such events.
  - (b) Carnival wishes to impose the following restrictions, based on age, in relation to its cruises commencing in Australia:
    - (i) For Carnival cruise ships departing an Australian port between 1 November and 7 January annually, Carnival will permit a quota of 20 passengers per cruise who are aged under 19 years to take part in the cruise without being accompanied by a responsible adult. Once this quota is filled, Carnival will require passengers aged under 19 to be accompanied by a responsible adult (**Responsible Adult Requirement**).
    - (ii) For Carnival cruise ships departing an Australian port between 8 January and 31 January annually, Carnival will permit a quota of 60 passengers per cruise who are aged under 19 years to take part in the cruise without being accompanied by a responsible adult. Once this quota is filled, Carnival will apply its Responsible Adult Requirement.
    - (iii) The quotas, in (i) and (ii) above, will not include infants and will also not include passengers under the age of 17, where Carnival considers that the minor does not present a risk of participating in an Unauthorised Event. Carnival will otherwise determine how the quota in each period is filled.
    - (iv) Carnival may, in its sole and absolute discretion, increase the quota in either or both periods, where it decides that the increase will not result in a risk to health, safety and security of the passengers and crew, having regard to the purpose of its policy.
    - (v) Carnival may, at its sole and absolute discretion, waive the Responsible Adult Requirement where it is satisfied that a specific passenger under the age of 19 does not present a risk of participating in an Unauthorised Event. Carnival may require any such passenger to sign a code of conduct or provide other commitments as a condition of boarding.
    - (vi) Where the Responsible Adult Requirement is mentioned in Carnival's advertising or online booking system, Carnival will state that it has retained a discretion to waive the Responsible Adult Requirement. Carnival will state

that prospective passengers can apply to Carnival for a waiver of the Responsible Adult Requirement and will provide information about how an application for a waiver can be lodged. Carnival will provide clear publicly available information regarding the factors it considers when making decisions about waiver applications. This information will be provided at the time of booking. Carnival will also state that requests for review in relation to a waiver application decision can be made through its complaint handling process and will publish information about this process.

- (vii) Carnival will assess each application for waiver of the Responsible Adult Requirement that it receives (when the relevant quota is filled, and it becomes applicable).
- (viii) Carnival will continue operating its complaint handling mechanism to allow applicants who are dissatisfied with Carnival's initial assessment on a waiver application to further engage with Carnival on the matter, and Carnival will participate in that process in good faith.

3.7 In respect of Clause 3.6(b)(vi), we provide the relevant extract from Carnival's passage contract below:

*“Subject to applicable laws, for cruises departing from an Australian port between 1 November and 7 January, We will permit a quota of 20 guests per cruise who are under the age of 19 and not accompanied by a responsible adult. Once this quota is filled, We will require guests who are under the age of 19 to travel in the same room as a responsible adult 19 years or older.*

*In addition, from 8 January to 31 January, We will permit a quota of 60 guests per cruise who are under the age of 19 and not accompanied by a responsible adult. Once this quota is filled, We will require guests who are under the age of 19 to travel in the same room as a responsible adult 19 years or older.*

*We can advise You at the time of booking whether the limit applies to Your booking. P&O Cruises can waive the responsible adult requirement at our discretion. Any requests for review of a waiver application decision can be made by emailing [feedback@pocruises.com.au](mailto:feedback@pocruises.com.au). In determining waiver requests we will take into account, the risks of an unauthorised event occurring, the risks of secondary supply of alcohol to minors or any other risks of excessive behaviour. The responsible adult is accountable for guests under 19 years of age in their room for the duration of the cruise, and the ‘Travel Restrictions and Rights of the Captain’ under clause 28 will be applied to anyone who displays disruptive behaviour.”*

#### **Who will be affected by the application?**

3.8 Generally, this Further Exemption will affect persons aged between 17 and 19 years who may wish to take part in Carnival cruises during the Schoolies Period in connection with celebrations as a result of their completion of school. However, this impact will only be for a limited period of time, and these persons will not necessarily be prevented from enjoying a cruise during this period. For instance:

- (a) For the first period of approximately two months, a Responsible Adult may not be required where Carnival has not filled its quota of 20 persons. Notably, Carnival may also increase this quota in certain circumstances as set out in Clause 3.6(b)(iv) above.

- (b) In the second period of approximately one month, a Responsible Adult may not be required where Carnival has not filled its quota of 60 persons. Notably, Carnival may also increase this quota in certain circumstances as set out in Clause 3.6(b)(iv) above.
- (c) Once these quotas have been filled, this age group can still travel with Carnival provided they are accompanied by a Responsible Adult.

### **Is an exemption necessary?**

- 3.9 As set out above, Carnival does not, in making this Application, admit that the Act applies to its activities in relation to leisure cruises upon vessels that are not "flagged" in the Australian jurisdiction. However, to the extent that the Commission is of the opinion that the Act does apply, it is possible that by continuing to observe a condition or requirement directly related to chronological age, Carnival's conduct may amount to unlawful discrimination under section 14 and/or 15 and 28(b) of the Act.
- 3.10 The exemptions in section 33 - 38, 40 - 41, 41A and 42 - 43 of the Act do not appear to apply to the conditions that Carnival continues to impose on persons during the Schoolies Period.
- 3.11 The exemption contained in section 39 of the Act extends to acts done in compliance with certain applicable Commonwealth, State and Territory acts and regulations.
- 3.12 As stated earlier in this Application, the principal reason why Carnival is seeking an extension of the Last Exemption is an ongoing concern for the health, safety and well-being of all passengers and staff on its vessels.
- 3.13 Carnival is of the firm view that an exemption in the form of the Further Exemption continues to be necessary to enable Carnival to ensure, so far as is reasonably practicable, the health, safety and security of its passengers and crew during Schoolies Periods. As indicated earlier in this Application, Carnival has previously attempted to reduce the risks associated with Unauthorised Events by significantly enhancing security and alcohol control measures. However, these have not been successful for the reasons previously outlined in this Application.

### **Why should an exemption be granted?**

- 3.14 We have addressed these reasons earlier in this Application.
- 3.15 We repeat that Carnival's application for Further Exemption is motivated principally by concerns for the health, safety and security of its passengers and crew. In its past experience, Schoolies events have involved anti-social behaviour, abusive behaviour (including sexual and racial abuse), sexual harassment, dangerous skylarking, property damage, violence, fighting, drinking to excess, and substance abuse. This behaviour was often directed at other passengers and crew who were not participating in Schoolies events.
- 3.16 Carnival notes that since the Commission granted the First Exemption to Carnival in 2010, it observed a general decrease in the number of Unauthorised Events and reported incidents involving anti-social behaviour during Schoolies Periods. Carnival further notes that since the Commission granted the Last Exemption to Carnival in 2019, the incidence of Unauthorised Events and reported incidents involving anti-social behaviour during Schoolies Periods has continued to remain low.
- 3.17 As such, in seeking a Further Exemption, Carnival is not relying on negative stereotypes of school leavers and persons aged under 19 years. Rather, Carnival is relying on its own direct experiences of incidents during the Schoolies Period, and the comparison of the number of



incidents after the Commission granted the First Exemption in 2010, the Second Exemption in 2013, the Third Exemption in 2017 and the Last Exemption in 2019. Carnival believes that, in order to continue to observe a reduced number of Unauthorised Events and reported incidents during Schoolies Periods, a Further Exemption is necessary.

- 3.18 Carnival notes that, in seeking a Further Exemption and in continuing to lawfully undertake the activities described in Clause 3.6 above, such actions are not inconsistent with the objectives of the Act. Carnival is not seeking to remove the ability of persons aged under 19 years to enjoy cruises during Schoolies Periods. Rather, Carnival wishes to ensure that such persons are appropriately supervised in order to reduce the likelihood of the types of unacceptable behaviour associated with Schoolies vacations.
- 3.19 Carnival also respectfully submits that a Further Exemption should be granted as it is appropriate on the grounds of public policy. As set out above, Carnival seeks a Further Exemption for the purpose of continuing to ensure the health, safety and security of its passengers during Schoolies Periods, and also because Carnival does not wish to provide a forum for a rite of passage that is endemically associated with alcohol, anti-social behaviour and substance abuse.
- 3.20 Carnival also notes that a number of other hospitality providers in popular Schoolies locations continue to impose conditions on school leavers during Schoolies Periods. Such conditions include increased room and property bonds, and a requirement for a parent or guardian to supervise persons under the age of 21 years. Further, Carnival notes that some properties simply refuse persons under the age of 21 to book hotel rooms during Schoolies Periods.
- 3.21 Further, Carnival refers to the 2010 Notice in which the Commission provided its reasons for granting Carnival's First Exemption. Carnival notes that the Commission has stated the following in the 2010 Notice:
- (a) The secondary supply of alcohol, in contravention of Carnival's Responsible Service of Alcohol policies and obligations, raises a significant risk to the health, safety and security of passengers and the Responsible Adult Requirement is an appropriate response to that concern.
  - (b) Although the Commission was of the view that Carnival's policy to be encompassed by the Exemption allowed conduct which was allegedly inconsistent with the objects of the Act, this was not of itself a reason for the Commission to deny the application for an Exemption. Accordingly, the Commission considered the reasonableness of Carnival's policy, weighing up the nature and extent of the discriminatory effect against the reasons advanced in favour of the Exemption.
  - (c) In taking into account a number of factors, including Carnival's legitimate concerns about controlling the consumption of alcohol on board its cruises, Carnival's policy encompassed by the Exemption was a reasonable measure which should be permitted.
  - (d) Carnival sought to minimise as far as possible the discriminatory effect of its policy encompassed by the Exemption by reducing both the age range and the time period of the Responsible Adult Requirement and by making it subject to exceptions in appropriate cases.
- 3.22 The above reasons put forward by the Commission in the 2010 Notice continue to be relevant to the present application for a Further Exemption. That is, the circumstances

surrounding Carnival's Further Exemption are the same as those relating to the First Application which was granted by the Commission. As such, Carnival submits that such reasons should be considered by the Commission now in determining whether to grant Carnival a Further Exemption.

- 3.23 Additionally, Carnival refers the Commission to the June 2013 Report commissioned by the House of Representatives Standing Committee on Social Policy and Legal Affairs titled *"Troubled Waters - Inquiry into the arrangements surrounding crimes committed at seas"*. Whilst the full report can be viewed via the link [http://www.aph.gov.au/parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=spla/crimes%20at%20sea/report/fullreport.pdf](http://www.aph.gov.au/parliamentary_Business/Committees/House_of_Representatives_Committees?url=spla/crimes%20at%20sea/report/fullreport.pdf), Carnival specifically draws the Commission's attention to the following clauses 4.75 and 4.76 where the Committee expressly indicates its support of Carnival's existing Exemption for the Schoolies Period:

*"4.75 Carnival Australia's decision to ban schoolies cruises is a responsible one. However, there is a possibility that other operators will seek to take advantage of the 'schoolies' market and run such cruises in future. The Committee believes that operating 'schoolies cruises' is irresponsible, and expects that operators, informed by the tragedies of recent years, will refrain from doing so.*

*4.76 The Committee notes that Carnival Australia will soon have to reapply for an exemption for its schoolies-cruise ban. The Human Rights Commission must consider such an exemption on its merits, and the Committee is fully supportive of Carnival's decision to ban schoolies cruises."*

- 3.24 Further, Carnival refers to the 2019 Notice in which the Commission provided its reasons for granting Carnival's Last Exemption. Carnival notes that the Commission has stated the following in the 2019 Notice:
- (a) Carnival's policy pursues a legitimate public policy goal and is appropriately targeted in its approach; and
  - (b) Carnival's policy is a reasonable measure having regard to the objects of the Age Discrimination Act.

**Are there factors that may affect the processing of the Application, (including whether there is a continuing necessity for an exemption under the Act)?**

- 3.25 In previous correspondence from the Commission dated 17 October 2019 and in the Conditions contained on page 12 of the 2019 Notice under the heading "Conditions", the Commission requested that Carnival provide a comprehensive report to the Commission by 1 June 2022 as to the matters set out at 3.26 below. Carnival notes that its Australian operations were paused due to the Covid-19 pandemic from 14 March 2020 to 31 May 2022. During this period, the Australian Government implemented a ban on international cruise ships entering Australian waters. Given Carnival's reduced operations and limited visibility on the resumption of cruising in Australia, Carnival was unable to provide the report by the requested date. Carnival apologises for the inconvenience and now provides the requested information as set out below.
- 3.26 Carnival provides the following information to the Commission:
- (a) ***how many applications/requests for waiver of the Responsible Adult Requirement it receives for the 1 November to 7 January period in each year that this exemption operates, and how many of these applications/requests it approves;***

In respect of the period 1 November 2019 to 7 January 2020, Carnival received 6 applications for a waiver of the Responsible Adult Requirement. These applications were received before 17 October 2019, the date the Last Exemption was granted. Accordingly, these 6 applications for a waiver were assessed under the Third Exemption. Under the Third Exemption, for Carnival cruise ships departing an Australian port between 1 November and 7 January annually, guests under the age of 19 were required to be accompanied by a Responsible Adult. There was no applicable quota amount of 20 guests.

Of the 6 applications for a waiver received, 5 were approved and 1 was denied.

These applications were considered based on Carnival's assessment of the risk, including where 18 year old guests were travelling with 17 year old guests with the inherent risk of secondary supply of alcohol to minors and where more than one cabin of 18/17 year olds requested to travel.

Carnival's Australian operations were paused during the periods 1 November 2020 – 7 January 2021 and 1 November 2021 – 7 January 2022. Accordingly, Carnival did not receive any applications or requests for waiver of the Responsible Adult Requirement in respect of these periods.

- (b) ***how many applications/requests it receives for waiver of the Responsible Adult Requirement during the 8 January to 31 January period in each year that this exemption operates, and how many of these applications/requests it approves;***

Carnival confirms that there were no requests for a waiver of the Responsible Adult Requirement in relation to cruises departing during the period from 8 January 2020 to 31 January 2020.

Carnival's Australian operations were paused during the periods 8 January 2020 – 31 January 2021 and 8 January 2022 – 31 January 2022. Accordingly, Carnival did not receive any applications or requests for waiver of the Responsible Adult Requirement for these periods.

- (c) ***on how many occasions and to what number it increased the quotas, and reasons for the exercise of this discretion;***

Carnival increased the quota on 1 cruise during the period 1 November 2019 to 7 January 2020 from 20 guests to 30 guests. Carnival also increased the quota on 2 cruises during the period 8 January 2020 – 31 January 2020 from 60 guests to 62 and 64 guests. On these cruises the increase to the quota was small and based on Carnival's assessment of the risk.

- (d) ***how many applicants utilised Carnival's complaints handling process each year to engage with Carnival further on waiver application decisions, and the outcomes of that process***

Carnival is continuing to review its records to confirm whether any further correspondence was received by the applicants whose waiver application was denied. Carnival will update the Commission as soon as this information has been confirmed.

- (e) ***any changes to the number or level of Unauthorised Events;***

Carnival is not aware of any Unauthorised Events involving guests aged 17 to 19 since the introduction of its "Responsible Adult Requirement" policy in 2010.

(f) ***the details of the publicly available information published by Carnival in relation to:***

- (i) ***Carnival's discretion to waive the Responsible Adult Requirement, and information regarding how a prospective passenger can apply for a waiver;***
- (ii) ***factors Carnival considers when making decisions about waiver applications;***
- (iii) ***the process for requesting a review in relation to a waiver application decision;***

Please see the relevant extract from Carnival's passage contract set out in section 3.7 above. This information is publicly available on Carnival's brand websites and brochures.

(g) ***whether, and why, the restrictions continue to be necessary to reduce Unauthorised Events;***

Carnival continues to be of the view that the restrictions are necessary due to Carnival's ongoing concern for the health, safety and security of its crew and passengers. These concerns are explained in further detail in section 2 of this application.

(h) ***any new methods/strategies to reduce Unauthorised Events that it has implemented or trialled over the course of this exemption period;***

Carnival feels that the unique risks posed by a shipboard environment are significantly different to the risks of an Unauthorised Event occurring on land. Unfortunately, and after careful consideration, Carnival does not consider that any strategies adopted in a land based context would fully address the risks.

Prior to the introduction of its "Responsible Adult Requirement" policy, Carnival introduced and trialled a range of measures to mitigate the risks of excessive behaviour, these are listed in section 1.3 above.

(i) ***the success or otherwise of those methods/strategies to meet its objectives.***

In Carnival's firm view, the measures listed in 1.3 above were not effective in managing the level of security incidents which became unacceptably high. In light of this experience, Carnival believes that the most responsible course of action is to try to manage the risk at the booking phase, rather than the point at which Unauthorised Events involving large groups occur onboard its ships, hence the continued need for its Responsible Adult Requirement policy.

3.27 In light of the matters contained above, Carnival remains of the firm view that:

- (a) there is an ongoing necessity for an exemption from the Act in the form of the Further Exemption; and
- (b) there are no other practical means of achieving Carnival's aim to minimise and/or prevent Unauthorised Events outside of being granted an exemption in the form of the Further Exemption sought.

- 3.28 In making this application for Further Exemption, Carnival firmly believes:
- (a) there continues to be a strong demand for Schoolies cruises; and
  - (b) cruises operating during the Schoolies Period, (albeit they are not promoted as “Schoolies Cruises”) continue to be a popular option for school leavers when choosing a destination for their end of school celebrations.
- 3.29 To demonstrate a clear example of this, on 16 February 2018 it was reported on ‘Cruise Critic’ that a ‘Schoolies Cruise’ had been advertised and promoted by a third party supplier (SureThing Travel) via the Royal Caribbean cruise line brand, without Royal Caribbean’s knowledge or authorisation (see **Schedule D**). (Cruise Critic is an independent cruise review community website which also has information for cruise passengers written by editors, news on cruising and a public forum).
- 3.30 This example emphasises the continuing concern of Carnival that large group bookings could turn certain cruises operating in the months from November to January into ‘de facto’ Schoolies cruises thus impacting the safety and enjoyment of other guests. Carnival’s product offerings are designed to be family friendly (particularly its cruises which operate during designated school holiday periods and Schoolies events have proven to be inconsistent with this).
- 3.31 Carnival has no intention of promoting its cruises to school leavers as designated Schoolies cruises in the foreseeable future. Notwithstanding, without an exemption in the form of the Further Exemption, Carnival has no control over the promotion by third parties (such as travel agents) of its cruises which operate during the Schoolies Period and the impacts of alcohol related security incidents involving Schoolies on its passengers and crew.

\* \* \* \* \*

We thank you for considering Carnival's application for the Further Exemption.

Carnival would be happy to provide any further information, which may assist the Commission in considering this application.

Yours sincerely



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