

December 1st, 2017

Marc Gregoire
Chairperson – *Pilotage Act* Review
Transport Canada
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Dear Mr. Gregoire,

Thank you for inviting CLIA NW and Canada's submission to the Government of Canada's *Pilotage Act* Review. It has been our pleasure, representing our 14-member cruise lines, to engage with you during your consultation initiatives related to the review. The roundtable event in Vancouver Nov 23 was constructive, allowing stakeholders to voice their concerns, to be heard and to debate with other stakeholders, the Pilotage Authorities, contracted service providers and employees. Our comments in this submission were informed in part from this discourse. We ask that these comments be considered preliminary as we, like you and others, seek additional guidance from research currently underway as part of this review.

BACKGROUND

CLIA-NWC represents all the major international cruise lines whose vessels sail Canada's coastlines from the Atlantic and St. Lawrence seaway to the Arctic and significantly Canada's Pacific coastal waters. Our members are vessel operators of branded consumer vacation products, they are successful, highly competitive, and generally profitable companies. They deliver to their guest's cruise vacation experiences that are safe, secure and cost effective.

As an industry we share many characteristics of the broader shipping industry and their concerns with pilotage, and some things that make us unique when it comes to the utilization of pilotage services. Our members are international operators of passenger vessels on largely coastal itineraries that are known and published up to two years in advance. Many of the cruise vessel itineraries are repeated on a weekly basis, many times in a single season, such as the Vancouver-Alaska sailings featuring weekly transits of the Inside Passage. There are also other unique, one-off itineraries such as Crystal Cruises' recent transits of the Northwest Passage in 2016 and 2017. Cruise lines employ numerous highly

advanced technologies and resources with worldwide navigation experience. In addition, the masters and bridge crews of these vessels are extensively trained and, in many regions, have decades of transit history.

The cruise industry supports pilotage in Canada as a valuable enhancement to the safety and security of cruise vessels and their passengers. There are many coastal areas of Canada where pilotage services are integral to Bridge Resource Management, noting that the vessel Master's responsibility for its safe navigation is not diminished as a result of the temporary addition of pilot resource to the bridge. Once on board, the Canadian pilot is joining an experienced and dynamic Bridge team.

Our goal in participating in this Pilotage Act Review is to lend our support for ushering in a new era of commercial discipline, continuous improvement, transparency and efficiency to the pilotage system in Canada, and to enhance safety while balancing an optimal mix of human assets and advancements in technology.

Governance of the Canadian pilotage regime

This review of the Pilotage Act provides a once-in-a-generation opportunity to assess the established governance model for pilotage in Canada against potentially viable alternatives. The highest priority recommendation our industry has for this review, is for the Canadian government to embrace alternative pilotage governance models.

On behalf of our members, responsible vessel operators, naturally we seek a governance framework that gives industry more direct control over these services, how they are delivered and importantly the cost of the services - while maintaining the highest possible standards for safety, security and environmental protection.

An industry-driven governance model for pilotage/navigation is not only possible in the maritime domain, but is a model that has been demonstrated, over two decades in Canada's air industry, to improve safety while resolving long-standing issues of accountability, transparency and economic efficiency. (<https://www.navcanada.ca/EN/media/Publications/Test%20of%20Time-EN.pdf>)

The cruise industry looks forward to working with the government of Canada to develop a road map towards an equally effective self-governance model in the maritime domain. It is recognized that this will be a significant undertaking, requiring the support and active involvement of government, major stakeholders and service providers.

Should the government be unwilling to embrace alternative governance models within this *Pilotage Act* Review, the cruise industry will subsequently advocate for significant changes to the existing crown corporation governance model. In particular, we join our industry colleagues in recommending

substantive changes to the crown corporations to ensure a greater degree of commercial discipline, innovation, transparency and efficiency. In that regard we offer the following recommendations.

Pilotage Authority Consolidation

Within this review to date specific questions have been raised regarding amalgamation and board composition of the crown corporations governing pilotage. In absence of clear evidence, we cannot see how an amalgamation of the disparate Canadian pilotage authorities into one, in and of itself, would be consistent with timely and regionally sensitive delivery of services provided under the authority's jurisdiction. At the same time, we acknowledge that many operating efficiencies may be realized through efforts to eliminate or reduce duplicative, redundant functions within the four existing authorities.

Pilot Authority Board Composition

We postulate that adequate and current pilot and industry expertise can support the Boards through an advisory mechanism. This has been demonstrated in other public service models bringing the expertise of relevant user groups together to examine and provide recommendations for general or specific issue resolution and policy development as an appropriate resource to Board decision makers.

Recommendation:

Neither National Boards nor regional authority boards should include active industry or working marine pilots as a board member. As in the NAV Canada and Port Authority models, members should be appointed for a position on the Board to represent specific pilotage user groups.

Additionally, the role of an advisory board with sufficient current navigation knowledge and experience, coupled with stakeholders who can offer expertise in individual marine sectors may provide a platform to better understand and recommend appropriate performance and efficiency indicators to the Board.

Transparency and Cost Certainty

Transparency is in the best interests of stakeholders, the public and industry alike, including access to the pilotage service contract and associated financial reporting that supports the costs related to the service provided. When compared to Canada's privatized air industry model, pilotage costs in the maritime domain continue to escalate year over year without associated improvements in services provided and no transparency of costs paid to the contracted service providers. To suggest that pilot corporation financial statements are not open to audit or disclosure to satisfy the interests of the corporate shareholders is disingenuous.

The current Canadian *Pilotage Act* does not provide flexibility for change, it does not look to the future, nor is it nimble enough to address changes whether they be imminent or two to three years from now. Rather, it is steeped in historical tradition; it represents and perpetuates a monopolistic, self-serving

contractor model; and it promotes exclusivity. As constructed, the *Act* leaves the end user without any reasonable influence over the cost of services for which they pay, no predictability of future costs and no commitments to uniform or consistent service.

Recommendation:

Under the realm of a regulated monopoly, pilot corporation contracts and financial statements should be a matter of public record.

Tariff Setting Decision-making

Tariffs are set to satisfy regulated financial requirements of the Authority, the vast majority of which flow through the Authority to its contracted service providers. With business plans and open financial reporting in place, industry is at least provided some clarity with respect to the Authority's residual revenue/expense requirements. A transparent model including disclosure of the pilotage contract and financial statements of the public service provider to the end user becomes supportable and should be a matter of public record. This may provide for a less contentious and time-consuming tariff setting process.

Recommendations:

The Act should prohibit pilots, active or retired from involvement in the Authority's tariff setting decisions.

Transparency of all costs associated with pilotage, both those of the authority and the use of those paid to pilot corporations.

Dispute Resolution

The *Final Offer Settlement* (FOS) process has been effectively used by pilot corporations to leverage continuous financial gains, triggering the requirement for escalating pilotage tariffs and resulting in unwarranted cost escalations to users.

It has been claimed by pilot corporations that FOS was put in place "at the request of industry". The reality is that the "industry" represented at the time would have mistakenly seen FOS as the least damaging of a discrete set of bad alternatives including the ability of pilots to strike/withhold essential navigation services.

Recommendation:

Consider alternative dispute resolution models that are transparent of finance statements and service contracts; and are efficient and recognize the competitiveness and commercial viability of Canada's marine transportation system.

Risk Management – Mandatory Pilotage

Recognizing the expertise and experience of pilots in the individual coastal regions of Canada, we believe it is appropriate to similarly recognize the expertise and experience of ship masters in assessing the risk, or developing the need for pilotage in any particular regional area. The result of optimizing local knowledge together with vessel design considerations, specific ship handling and navigation experience to these important aspects of safe navigation ensures that every effort has been made to recognize the individual capabilities of various sectors of the marine industry.

Recommendation:

Rename the Pilotage Risk Management Methodology. Include in the Pilotage Act an inclusive and supportable model to address the procedure and participants.


Conclusion

The core objective of the initiative to review Canada's dated and somewhat obsolete *Pilotage Act* can only be successful if all involved recognize that an *Act*, which is 46 years old and has never been significantly changed or amended, has become woefully outdated.

In the context of this *Pilotage Act* Review, our industry pledges to support the Canadian government in the cooperative design of a new model for the provision of pilotage that ensures safety and protection of Canada's coasts and shipping, while providing efficiency and transparency to the end users.

Thank you for this opportunity to comment as the review progresses, we look forward to reviewing the studies underway and to continued dialogue as this initiative moves forward.

Sincerely,



Greg Wirtz
President