30 November 2016.

Sea Swift Submission to Senate Standing Committee on Education and Employment

Sea Swift Pty Ltd provides the following submission in relation to the Inquiry into Seafarers and Other Legislation Amendment Bill 2016, the Seafarers Safety and Compensation Levies Bill 2016, and the Seafarers Safety and Compensation Levies Collection Bill 2016.

Based in Cairns, Far North Queensland, Sea Swift is a dynamic regional marine cargo transport business which is the lifeblood of the supply of essential goods and services to remote communities in Northern Australia, particularly the aboriginal and islander communities in Cape York Peninsula, the Gulf of Carpentaria, Northern Queensland, and the Northern Territory. Sea Swift employees some 420 employees, and has one of the highest ratios of aboriginal and islander employment of any Australian business.

A key philosophy of the company is the development and welfare of its employees, and axiomatically we make a significant contribution to the employment and skills development of aboriginal and islander communities. This philosophy is evidenced by Sea Swift having won some sixteen (16) awards pertaining to employment and training during the preceding five years, including being a finalist in the coveted Australian Training Awards 'Employer of the Year' category.

As an employer, Sea Swift is governed by the following relevant legislation pertaining to occupational health and safety:

- *Work, Health, and Safety Act, 2011* (Qld)
- *Work, Health, and Safety (National Uniform Legislation) Act* (Northern Territory)
- *Worker's Compensation and Rehabilitation Act 2003* (Qld)
- *Workers Rehabilitation and Compensation Act* (NT)

These legislative requirements place responsibilities on Sea Swift as an employer. Accordingly, the company has implemented systems and processes that uphold its legislative responsibilities, addresses and minimises workplace risks, and ensures the best care and management of injured workers. The manner in which Seacare is managed and administered results in it being incompatible with, and not meeting, the requirements of the above legislation.

Sea Swift's workforce is spread across depots in the following cities/communities: Cairns, Thursday Island, Horn Island, Bamaga, Weipa, Groote Eylandt, Gove/ Nhulunbuy, and Darwin. Furthermore, a large part of our workforce is located on vessels in Queensland and the Northern Territory.

Sea Swift's Worker's Compensation arrangements are managed through Workcover (Queensland) and CGU (N.T). In the unfortunate occurrence of a workplace injury our company provides a comprehensive and carefully managed response, in conjunction with Workcover/GGU, which provides excellent medical treatment, rehabilitation, and return to work initiatives.

Sea Swift is emphatically opposed to the Seacare scheme. Seacare is a highly expensive and inadequately managed scheme that manifests in higher costs for employers, and worse outcomes for injured workers. Sea Swift's current arrangements with Workcover and CGU are vastly superior to what is provided for in Seacare.

Sea Swift lists the following aspects of Seacare which would adversely affect our current arrangements, and we have also identified many questions pertaining to this scheme:

Cost Recovery and Fees

At present Sea Care has the highest premiums in the country. It produces very poor non sustainable return to work options for its members. This presents a high risk situation for employers. Seacare has no panel of experts of rehabilitation providers and/or treatment providers, whereas our current insurers provide specific case management of injured workers. Furthermore, our current insurers provide the following processes, which are absent under Seacare: proper dispute resolution, specific advice including expert legal advice, and infinitely more resources.

The proposal to adopt the Comcare model (traditional for government workers) also poses concerns. It does not appear that under the proposal the risks associated with the marine industry will be taken into account, for example, high wages, rosters, working in remote locations, and limited exposure to treatment facilities. These risks can add to the duration and risk of the claim, causing a huge financial burden for the

employer. The inclusion in the Bills of the option of establishing a small advisory committee is not reassuring.

Dual Insurance

Sea Swift's marine employees comprise various elements of land-based duties (for example, cargo logistics and stevedoring), as well as stereotypical marine based duties. Seacare would not adequately cover such workers under all scenarios. Our current insurance arrangements cover all aspects of our marine workers tasks.

Additionally, Sea Swift has a considerable portion of its workforce that are not marine employees, and would not be covered by Seacare. This would force Sea Swift to have separate insurance arrangements for its shore-based employees and its marine employees. This contravenes common sense, is cumbersome, increases costs and premiums, and fragments all aspects of the management of our workers compensation, rehabilitation, and return to work processes.

Negligence –Common Law.

In Queensland there is a common law compensation pathway in the legislation (Chapter 5, *Worker's Compensation and Rehabilitation Act 2003*) and there is none in the NT. What would be the case in Seacare? Once the employee has completed the return to work process does the worker have a pathway to lodging a claim for damages? Will these payments be capped? If Seacare has a common law component, how will this be funded'? Who will underwrite it?

Auditing

State-based workplace insurers, including Workcover, are audited. The findings of these audits are broadly released to key stakeholders. Will there be a nominated organisation to audit Seacare?

Host placements for injured workers

If an injured marine worker cannot return to his/her pre-injury role will there be scope to seek host employment options under Seacare?

One Workers Compensation System

There have been many discussions around having a harmonised system, which has largely been implemented throughout Australia. The Seacare scheme is not compatible with these arrangements.

Cost of Rehabilitation

A Worker's Compensation scheme must cover all of the extenuating costs of a workplace injury. Under our current arrangements, all of these costs are covered. For example, a shoulder tear/reconstruction will take approximately 9-12 months to fully rehabilitate. The treatment cost of this injury is approximately $68,000, as well as payment for sick leave and wages. The calculation of an employer's worker's compensation premium includes:

- Wages
- Amount of claims
- Cost of the claims
- Common law payout (only in QLD). If a worker in a common law settlement receives more than $180k it will impact upon the premium.

It is unclear if Seacare provides for all of these costs.

Costs of Seacare and Safety Net Fund

Seacare's premiums are vastly more expensive than that of our current providers, and is currently the most expensive scheme in Australia. Furthermore, it is unfair that employers have to contribute to a Safety Net Fund which seemingly is used on a basis and for which there is little information about its management and corporate governance. Moreover, having a worker's compensation scheme for such a small economy of scale is fiscally irresponsible, and in a declining industry will result in rapidly increasing premiums.

Wages in the Return to Work process

Under current state based arrangements, there are differing arrangements of remunerating injured employees. Sea Swift remunerates its injured employees a full 100% of their base wages whilst being rehabilitated and until that employee has returned to their pre-injury role It is also our understanding that the statistics for Seacare's outcomes in rehabilitation, claims management, and return to work are well below that of other insurers.

Average Age of Seafarer

An ageing work force will increase costs for all insurers. Workplace exacerbation of chronic conditions becomes more pronounced as an employee ages. The average age of a marine worker is similar to the mining industry at 49 years of age. This is another financial risk to consider, and it is unclear if this has been considered by Seacare. For the Seacare scheme to manage this proactively would attract increased costs and these are being passe don to the employer in a way that is unsustainable.

Disproportionate consideration of Unions' opinion

The government's response in the RIS states the following: *"Union stakeholders are strongly opposed to abolishing the Seacare scheme."* The obvious question that any reasonable person should ask is: "What is the connection between Seacare and the Unions?" If it is widely accepted that Seacare produces such poor outcomes for injured workers, it beggars belief that Unions would still support this scheme.

Before one even ponders the above questions, however, it is pertinent to point out the following important considerations:

- it is employers who are responsible for managing injured workers and providing the best workers compensation, rehabilitation, claims management, and return to work arrangements – not the unions
- it is employers who are responsible for complying with afore-listed legislation – not the unions
- it is employers who pay Workers Compensation premiums – not the unions

As an employer we take these responsibilities very seriously. It is time that decision-makers applied more consideration to the needs and opinions of employers as they are the persons in charge of applying and implementing this legislation – not the unions.

Accordingly, it is our submission that the Seacare scheme is abolished, and employers utilise existing state–based workers compensation and rehabilitation insurance arrangements that comply with relevant legislation.

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