

Introduction

- 1.1 Almost 700 000 Australians took a cruise in 2012, and the Australian cruising market has been growing strongly for nearly a decade. It is almost five times bigger than it was ten years ago. For most cruising passengers, cruises are a time of relaxation, celebration and adventure. Most Australian cruise passengers expect that the cruising environment reflects Australian social and legal standards, especially as cruising operators have Australian companies and run cruises from Australian ports. However, cruises are an international destination in themselves, and passengers must treat them as such.
- 1.2 On the infrequent occasions that accidents or crimes occur on a cruise, the cruising environment can pose particular challenges to safety and justice. Cruise ships can hold over 5 000 people, and are often a long way from law enforcement. Additionally, establishing which country has jurisdiction to enforce its laws can be extremely complex.
- 1.3 Past crimes and accidents have highlighted the risks of cruising to Australian consumers. The tragic death of Ms Dianne Brimble in 2002¹, and the recent disappearance overboard of Mr Paul Rossington and Ms Kristen Schroder in May 2013² serve as reminders that an accident or crime at sea can be profoundly tragic. This inquiry focusses on the proactive ways that Australian and foreign cruise passengers can be kept safe at sea, on the actions the Australian Government can take to improve safety and justice on cruises, and on the steps that industry and government need to take to ensure that their responses to tragedies are appropriate.

1 Ms Brimble's death is discussed in Chapter 2.

2 Whilst discussed in this report, the disappearance of Mr Rossington and Ms Schroder is not considered suspicious. It is considered further in Box 2, in Chapter 2.

Referral of the inquiry

- 1.4 On 11 September 2012, the Attorney General the Hon Nicola Roxon MP asked the Social Policy and Legal Affairs Committee to inquire into the arrangements surrounding crimes committed at sea. The Committee agreed to adopt the terms of reference for the inquiry, as referred by the Attorney General, on Thursday 13 September 2012.
- 1.5 The inquiry was referred to the Committee in the context of the New South Wales Coroner's inquiry into the death of Ms Dianne Brimble, who tragically died in 2002 on board a P&O cruise ship.³ The recommendations of that coronial inquiry (conducted by Coroner Jacqueline Milledge) will be referred to in this report as 'the Milledge Recommendations'. The Australian Government's response to the recommendations will be referred to as 'the Government response'.
- 1.6 The terms of reference direct the Committee, having regard to the principles of international law, to:
- Examine the effectiveness of current arrangements for the investigation and prosecution of alleged offences under the *Crimes at Sea Act 2000* and the *Intergovernmental Agreement – Crimes at Sea* (made on 16 November 2000);
 - Examine the cross jurisdictional issues that face the States, Territories and the Commonwealth, including the overlap of various coronial jurisdictions;
 - Consider whether improvements could be made in relation to the reporting, investigation and prosecution of alleged crimes committed at sea; and
 - Examine support available to victims of crime committed at sea.

Scope of inquiry

- 1.7 The terms of reference proposed by the Attorney General were broad in their scope, potentially incorporating a range of illegal activities that occur at sea, such as people smuggling, drug trafficking and piracy.
- 1.8 The Committee resolved to conduct the inquiry with a focus on serious crimes against the person, including fatal, non-fatal and sexual offences. The Committee considered that this narrowed scope is consistent with the intent of the inquiry referral, originating as it does from the coronial

3 The P&O brand is a part of the Carnival Australia company, which participated in the inquiry.

recommendations following the inquest into the death of Ms Brimble.

- 1.9 The Milledge Recommendations included a number of issues to be taken into account in the Committee's inquiry.⁴ These include:
- Issues addressed by the *US Cruise Vessel Safety and Security Act 2010* (the *Kerry Act* – discussed below) and the need to adopt the Act to the specific demographics of Australia;
 - Legislating for the attachment of Australian Federal Police to ships to ensure an appropriate response to crimes;
 - The recommendations made by Mr Mark Brimble and the International Cruise Victims of Australia to the inquest; and
 - The submission made by P&O to the inquest and the reforms undertaken by P&O [part of Carnival Australia].
- 1.10 The Committee examined the above issues during the course of its inquiry.
- 1.11 The *Cruise Vessel Safety and Security Act 2010*, also known as the *Kerry Act*, was passed by the US Congress in 2010. It was the result of a number of congressional hearings into the cruising industry, as well as sustained lobbying by victims' groups. The *Kerry Act* provides for comprehensive regulation of the cruising industry in the USA, and will be discussed in numerous parts of this report.

Conduct of the inquiry

- 1.12 The inquiry was advertised on the Committee's website, and a call for submissions was made in October 2012. The Committee received 22 submissions and five supplementary submissions, which are listed at Appendix A. These are published on the Committee's website.⁵
- 1.13 The Committee received six exhibits, listed at Appendix B. These are also published on the Committee's website.
- 1.14 The Committee held five public hearings, in Canberra, Brisbane and Sydney, and conducted a site inspection in Sydney. These activities are listed at Appendix C.
- 1.15 The Committee had legal advice prepared by the Australian Government Solicitor (the Legal Advice) relating to Australia's rights under international law in relation to incidents on ships that call at Australian

4 The Milledge Recommendations, Appendix E.

5 < <http://www.aph.gov.au/spla> >

ports. The advice has been published on the Committee's website, and is included at Appendix D. The decision to obtain Legal Advice is discussed in Chapter 3.

- 1.16 The Committee has decided to publish five additional documents in this report's appendices, to ensure that future consideration of these issues has reliable access to important resources:
- The Milledge Recommendations are included at Appendix E;
 - The Government Response is included at Appendix F;
 - The National Protocols for Reporting Crimes at Sea are included at Appendix G;
 - The Intergovernmental Agreement – Crimes at Sea is included at Appendix H; and
 - Carnival Australia's and Royal Caribbean Cruise Lines' responses to the Committee regarding the flagging of their cruise vessels are included at Appendix I.
- 1.17 The Committee conducted a private hearing with victims and family members of victims of crimes committed at sea. This made a very valuable contribution to the inquiry, and the Committee thanks those individuals who participated for giving their time and sharing their experiences.
- 1.18 The Committee made direct invitations to a number of cruise operators to appear at a public hearing, however only Carnival Australia and Royal Caribbean Cruise Lines were willing to participate in the inquiry. The Committee thanks these companies for their willingness to provide every assistance to the Committee. The Committee especially notes the contribution of Mrs Christine Duffy, from the Cruise Lines International Association, who travelled from the USA to give evidence to the inquiry. The Committee is disappointed that other companies did not contribute to the inquiry. An overriding concern of the inquiry is that the Committee did not receive evidence from other operators, and that as the Australian market grows they could undercut the two major players that have improved their operations in the past decade.

Purpose of inquiry

- 1.19 The coronial inquest into the death of Ms Brimble outlined a number of serious failings in the handling and investigation of the incident that resulted in her death in 2002.
- 1.20 This inquiry is a review of the arrangements that have been put in place since then to ensure that similar failings do not occur again.

- 1.21 This inquiry further reviews the efficacy of arrangements among various Australian jurisdictions for the investigation and prosecution of crimes committed at sea.
- 1.22 In its response to the coronial recommendations, the Australian Government stated that it was of the view that the current arrangements for investigating and prosecuting crimes at sea are appropriate, but considered that 'there is value in the Committee considering whether these arrangements can be improved'.⁶
- 1.23 Accordingly, it is important to note that this inquiry is a review of current arrangements and the scope to strengthen procedures rather than an investigation into the events of 2002.

Structure of the report

- 1.24 Chapter 2 discusses cruising tourism, which is growing in Australia. In particular, it discusses the global cruising industry, the Australian market and the available crime statistics.
- 1.25 Chapter 3 outlines the interaction of various jurisdictions at sea. It commences with a general discussion of international law and the United Nations Convention on the Law of the Sea (UNCLOS). It then considers Australia's maritime jurisdiction.
- 1.26 Chapter 4 deals with preventing crime and keeping safe at sea. It considers the Milledge Recommendations, the improvements made by cruising operators over the past decade, and other ways to promote safety and prevent crimes at sea. It also discusses the role of consumer information and travel advice in optimising the personal safety of passengers.
- 1.27 Chapter 5 deals with the response to crimes at sea by ship operators. This is divided into three main sections – support and care for crime victims, preservation of the crime scene, and reporting crimes.
- 1.28 Chapter 6 deals with the investigation of crimes committed at sea, primarily by police, and the coroner's inquiries that may result. The Chapter completes the report with the Committee's concluding comments.

6 Government Response, Appendix F, p. 5.