



Holman Fenwick Willan CRUISE CAPABILITY



WHY CHOOSE HFW FOR YOUR NEEDS IN THE CRUISE INDUSTRY?

HFW provides a comprehensive legal service to the cruise industry. We are able to draw on our expertise in the marine sector to provide the cruise industry with all the legal services it needs. These include all forms of transactional work, advice on regulatory and compliance requirements, assistance with port and terminal issues and projects, as well as dispute resolution, so as to enable clients to respond to the many legal challenges they face in a wide range of jurisdictions. We advise our clients on all matters relating to maritime, passenger carriage and general claims. HFW also has one of the largest and most experienced casualty investigation teams in the world, and can mobilise a large and effective team to deal with any emergency.

HFW has an in-depth understanding of the key legal and operational challenges facing the cruise industry. Through the breadth of our expertise we are well placed to advise clients on ways to respond to these challenges. Our understanding is a result of our lawyers' direct experience and practical knowledge of working for cruise companies. We can also call on the expertise of our wider team of experienced mariners, who have experience of cruise ships, ferries and very large yachts.

What we do

Transactional advice enabling you to make the most of your assets

We advise on all core contracts required by a cruise business. We have wide experience of shipbuilding, conversion, refit and refurbishment contracts worldwide, as well as sale and purchase contract forms (both industry standard and bespoke). In addition, we advise owners and ship managers on the contractual arrangements for the technical and commercial management of ships, and regularly review charterparties and other contracts for use by cruise ships.

Our market-leading team of aviation lawyers regularly drafts air charter contracts and contracts with airline partners and service providers, which provide appropriate protection for the interests of our cruise operator clients.

One of our core areas of expertise is advising lenders and borrowers on all types of ship finance transactions, including export credit-backed and other government-backed finance. Our transactional lawyers also advise on all aspects of stock and bond issues in the major listing jurisdictions, including New York, Oslo, London and Hong Kong.

We can also call on our specialist team who advise on debt and equity financing and restructuring work, joint ventures, partnership and participation arrangements for the ownership and operation of ships, company, group and business acquisitions, disposals, and management buy-outs and buy-ins, as well as domestic and cross-border tax issues.

We regularly work with our clients to both exploit and protect their brand. We also ensure that appropriate IT solutions are employed and data protection is complied with. As part of this, we advise on booking conditions, website and brochure content, passenger terms and conditions of carriage, and ticketing notices and conditions for companies in the travel sector, including tour operators, cruise companies and airlines.

We also regularly advise shipowners and operators on the factors relevant to the choice of ownership structure and flag state.

Managing passenger and staff claims

We advise cruise operators, shipowners, airlines and their insurers in relation to a range of serious injuries and fatalities suffered by crew, passengers and shore staff worldwide, as well as on passenger claims involving damaged or lost luggage, cancellations or loss of enjoyment under the Athens Convention and domestic laws.

We have particular expertise in accident investigation, specialist protocols, large-scale litigation (including class actions and group litigation orders), dealing with injuries suffered during piracy incidents, travel claims and occupational disease. For example, we have worked on a number of class actions involving cruise ships and the mass outbreak of illnesses on board. We advise on indemnity claims against third party service providers. With our international presence, we are well-placed to deal with large-scale incidents where passengers bring actions in several different jurisdictions.

Avoiding casualties and incidents before they arise is an important part of management. The significant sea-going and ship management experience within the firm, particularly within the cruise industry, enables us to offer practical experience of safety management procedures to assist owners and their hull/machinery and P&I insurers to avoid casualties. Our experience includes advice on legislation such as the UK Corporate Manslaughter and Corporate Homicide Act 2007, the Health and Safety at Work Act 1974, and the implications for health and safety procedures at sea and shore side.

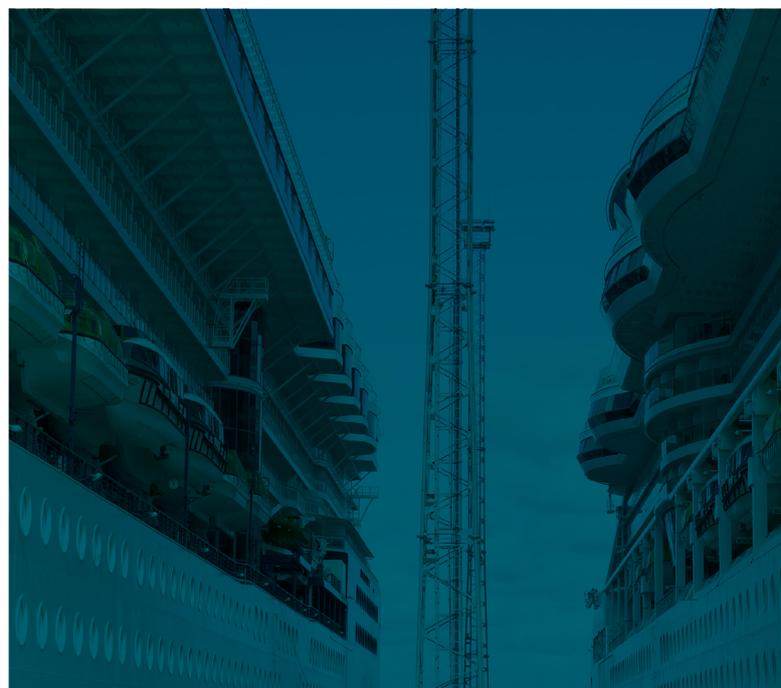
Minimising risk and responding to casualties

The firm is acknowledged as having one of the largest and most established admiralty and crisis management practices in the world. The team includes lawyers with sea-going experience and is ready to react rapidly to incidents. Many of our team members have served aboard passenger ships in senior ranks.

We also assist cruise businesses on issues concerning the security of ships sailing in high risk areas, including the deployment of armed maritime security officers and passenger liability and insurance issues. We have been involved in the resolution of over 120 hijacking and piracy incidents over the past five years.

Our team has a specialist understanding of marine insurance. We advise on a wide range of insurance risks arising from cruise operations. These include major marine casualties, package travel claims, policy coverage/subrogation disputes, policy wordings, and alternative insurance arrangements. We have developed a structured claims handling service and procedures for emergency response for certain clients. This operates as an extension of their in-house claims team. Our experience also includes dealing with the Package Travel Regulations.

We are regularly involved in the formation, approval, management and operation of a large number of insurance captives and other insurance vehicles in a range of jurisdictions. In doing so, we work with and can make recommendations in respect of the accountancy, insurance manager, local counsel and tax advisory firms active in this area.



Ensuring compliance

Operators and owners need to ensure compliance with appropriate regulations. We regularly advise on international legislation and regulations covering co-operation and commercial arrangements between competitors, and merger control.

We have also recently advised on pricing practices, with particular reference to the relationship between cruise operators and intermediaries. Alongside this advice, we work with clients to provide training and compliance programmes, including on how to address a dawn raid.

We also have expertise on the ATOL licensing regime and related financial protection requirements, and of the complex interplay between ATOL requirements and other financial protection obligations arising outside of the ATOL regime, such as ABTA bonding.

In addition, we have deep knowledge of the complex environmental, waste and emission control regulations within which the cruise industry operates including, without limitation, the EU Sulphur Directive and the Ballast Water Management Convention.

Ports and terminals

We understand that the cruise industry relies on the availability of berths and services at its calling ports. Our ports and terminals team, which includes lawyers and industry experts from terminal operating companies and shipping lines, advises on:

- The sale and purchase of berths and docks.
- The financing and development of infrastructure.
- Equipment purchase.
- Supply-chain connection.
- Appointment of terminal managers and marine services.
- Port facility security compliance.
- Terms and conditions for use of ports and terminals.
- Negotiation of specific ship operator terminal service agreements.

Where the port or terminal is to be established, we prepare bid and response documents and negotiate concessions, construction and lease agreements, terminal services agreements, dedicated berth arrangements and build-operate-transfer arrangements.

Managing disputes

Disputes will inevitably arise from time to time. We have experience across the travel industry of handling and advising on disputes between tour and cruise operators, airlines and general sales agents, ground handling agents, catering companies, hoteliers and other service providers. Dispute resolution is a key part of our practice and we have one of the widest network of lawyers in the maritime and commercial field. Our international network of offices and trusted correspondent lawyers enables us to take the lead in international dispute resolution.



Recent cruise industry highlights

- Advising a Hong Kong based cruise line on shipbuilding contracts for two 3,300-passenger cruise ships, including on the financing of the contracts and related design and employment issues.
- Advising owners, insurers and salvors on passenger ship casualties worldwide, including *ROYAL PACIFIC*, the *EUROPA* collision with *INCHON GLORY*, *PRIDE OF AL SALAM*, *OCEAN MAJESTY* and *AL SALAM BOCCACCIO*.
- Advising international cruise operators on the interpretation and extent of P&I terms.
- Advising leading cruise operators on IP/IT issues, including trade mark disputes and data protection/privacy issues.
- Advising a cruise line on contract negotiations for the construction of two luxury passenger cruise ships.
- Advising a bank on the re-financing of a South American cruise ship.
- Advising a shipbuilder in respect of an ECA backed loan and guarantee facility for a cruise vessel.
- Advising a major cruise line operator/owner on the structuring of package holiday sales and related ATOL and other bonding requirements.
- Advising a major cruise line operator/owner with air charter contract reviews.
- Advising an operator of luxury, all-suite cruise ships on its passenger terms and conditions, on the compliance with EU and UK legislation, including package travel regulations, and other EU law and IP advice.
- Advising a large not-for-profit society on the legal and insurance aspects of planning an Antarctic expedition with participation by international students and scientists, including advice on vessel chartering arrangements and passenger ticket terms.
- Advising clients on dealing with UK and other customs authorities on their liability for customs debt.
- Advising on passenger ship bareboat hire purchase and registration arrangements.
- Advising on the terms of a bareboat charter, including the owner's failure to deliver the vessel in the agreed condition.

- Advising a cruise line on its joint venture with a travel and leisure group in connection with the chartering in of a vessel on a deck and engine basis and the marketing and operation of the vessel.
- Advising a cruise line owner on a contract for employment of armed guards on board a cruise ship.
- Advising a cruise line regarding air transfer contract terms and ABTA.
- Advising a cruise operator on salmonella claims arising on a vessel.



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