

*Title:* Cruise Lines International Association Agreement.

*Parties:* AMA Waterways; American Cruise Lines, Inc.; Azamara Cruises; Carnival Cruise Lines; Celebrity Cruises, Inc.; Costa Cruise Lines; Crystal Cruises; Cunard Line; Disney Cruise Line; Holland America Line; Hurtigruten, Inc.; Majestic America Line; MSC Cruises; NCL Corporation; Oceania Cruises; Orient Lines; Princess Cruises; Regent Seven Seas Cruises; Royal Caribbean International; Seabourn Cruise Line; SeaDream Yacht Club; Silversea Cruises, Ltd.; Uniworld River Cruises, Inc.; and Windstar Cruises.

*Filing Party:* Terry Dale, President; Cruise Lines International Association, Inc.; 910 SE 17th Street, Suite 400; Fort Lauderdale, FL 33316.

*Synopsis:* The amendment revises the Annual Travel Seller's fees and the members' annual basic and supplemental fees.

*Agreement No.:* 010099-052.

*Title:* International Council of Containership Operators.

*Parties:* A.P. Moller-Maersk A/S; China Shipping Container Lines Co., Ltd.; CMA CGM, S.A.; Compañía Chilena de Navegación Interoceánica S.A.; Compania SudAmericana de Vapores S.A.; COSCO Container Lines Co. Ltd; Crowley Maritime Corporation; Evergreen Marine Corporation (Taiwan), Ltd.; Hamburg-Süd KG; Hanjin Shipping Co., Ltd.; Hapag-Lloyd AG; Hyundai Merchant Marine Co., Ltd.; Kawasaki Kisen Kaisha, Ltd.; MISC Berhad; Mediterranean Shipping Co. S.A.; Mitsui O.S.K. Lines, Ltd.; Neptune Orient Lines, Ltd.; Nippon Yusen Kaisha; Orient Overseas Container Line, Ltd.; Pacific International Lines (Pte) Ltd.; United Arab Shipping Company (S.A.G.); Wan Hai Lines Ltd.; Yang Ming Transport Marine Corp.; and Zim Integrated Shipping Services Ltd.

*Filing Party:* John Longstreth, Esq.; K & L Gates LLP; 1601 K Street NW.; Washington, DC 20006-1600.

*Synopsis:* The amendment deletes Atlantic Container Line AB as a party to the agreement.

Dated: January 8, 2010.

By Order of the Federal Maritime Commission.

**Tanga S. FitzGibbon,**

*Assistant Secretary.*

[FR Doc. 2010-503 Filed 1-13-10; 8:45 am]

**BILLING CODE P**

## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Submission for OMB Review; Comment Request

**AGENCY:** Federal Trade Commission ("FTC" or "Commission").

**ACTION:** Notice.

**SUMMARY:** The information collection requirements described below will be submitted to the Office of Management and Budget ("OMB") for review, as required by the Paperwork Reduction Act ("PRA"). The FTC seeks public comments on its proposal to extend through January 31, 2013, the current OMB clearance for information collection requirements contained in its Mail or Telephone Order Merchandise Trade Regulation Rule ("MTOR" or "Rule"). That clearance expires on January 31, 2010.

**DATES:** Comments must be filed by February 16, 2010.

**ADDRESSES:** Interested parties are invited to submit written comments electronically or in paper form by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Comments in electronic form should be submitted by using the following weblink: (<https://public.commentworks.com/ftc/MTORpra2>) (and following the instructions on the web-based form). Comments filed in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex J), 600 Pennsylvania Avenue, N.W., Washington, DC 20580, in the manner detailed in the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be addressed to Jock Chung, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, DC 20580, (202) 326-2984.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments:

Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to "Mail or Telephone Order Merchandise Trade Regulation Rule: FTC File No. R511929," to facilitate the organization of comments. Please note that your comment – including your name and your state – will be placed on the public record of this proceeding, including on the publicly accessible

FTC website, at (<http://www.ftc.gov/os/publiccomments.shtml>).

Because comments will be made public, they should not include any sensitive personal information, such as any individual's Social Security Number; date of birth; driver's license number or other state identification number; or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential" as provided in Section 6(f) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing matter for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c).<sup>1</sup>

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted using the following weblink: (<https://public.commentworks.com/ftc/MTORpra2>) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink (<https://public.commentworks.com/ftc/MTORpra2>). If this Notice appears at ([www.regulations.gov/search/index.jsp](http://www.regulations.gov/search/index.jsp)), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC Website at (<http://www.ftc.gov>) to read the Notice and the news release describing it.

A comment filed in paper form should include the reference "Mail or Telephone Order Merchandise Trade Regulation Rule: FTC File No. R511929," both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex J), 600

<sup>1</sup> The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See FTC Rule 4.9(c), 16 CFR 4.9(c).

Pennsylvania Avenue, N.W., Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (<http://www.ftc.gov/os/publiccomments.shtml>). As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (<http://www.ftc.gov/ftc/privacy.shtml>).

On October 19, 2009, the FTC sought comment on the information collection requirements associated with the MTOR, 16 CFR Part 435 (Control Number: 3084-0106). 74 FR 53500. No comments were received. Pursuant to the OMB regulations, 5 CFR Part 1320, that implement the PRA, 44 U.S.C. 3501-3521, the FTC is providing this second opportunity for public comment while seeking OMB approval to extend the existing paperwork clearance for the Rule. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before February 16, 2010.

### Background:

The MTOR was promulgated in 1975 in response to consumer complaints that many merchants were failing to ship merchandise ordered by mail on time, failing to ship at all, or failing to provide prompt refunds for unshipped merchandise. A second rulemaking proceeding in 1993 demonstrated that the delayed shipment and refund problems of the mail order industry were also being experienced by consumers who ordered merchandise over the telephone. Accordingly, the Commission amended the Rule, effective on March 1, 1994, to include merchandise ordered by telephone, including by telefax or by computer through the use of a modem (e.g., Internet sales), and the Rule was then

renamed the "Mail or Telephone Order Merchandise Rule."

Generally, the MTOR requires a merchant to: (1) have a reasonable basis for any express or implied shipment representation made in soliciting the sale (if no express time period is promised, the implied shipment representation is 30 days); (2) notify the consumer and obtain the consumer's consent to any delay in shipment; and (3) make prompt and full refunds when the consumer exercises a cancellation option or the merchant is unable to meet the Rule's other requirements.<sup>2</sup>

The notice provisions in the Rule require a merchant who is unable to ship within the promised shipment time or 30 days to notify the consumer of a revised date and his or her right to cancel the order and obtain a prompt refund. Delays beyond the revised shipment date also trigger a notification requirement to consumers. When the MTOR requires the merchant to make a refund and the consumer has paid by credit card, the Rule also requires the merchant to notify the consumer either that any charge to the consumer's charge account will be reversed or that the merchant will take no action that will result in a charge.

### Burden Statement:

**Estimated total annual hours burden:** 2,401,000 hours (rounded to the nearest thousand)

In its 2006 PRA-related **Federal Register** Notices<sup>3</sup> and corresponding submission to OMB, FTC staff estimated that established companies each spend an average of 50 hours per year on compliance with the Rule, and that new industry entrants spend an average of 230 hours (an industry estimate) for compliance measures associated with start-up.<sup>4</sup> Thus, the total estimated hours burden was calculated by multiplying the estimated number of established companies x 50 hours, multiplying the estimated number of

new entrants x 230 hours, and adding the two products.

No provisions in the Rule have been amended or changed since staff's prior submission to OMB. Thus, the Rule's disclosure requirements remain the same. Moreover, no public comments were received regarding the above-noted estimates; thus, staff will apply them to the current PRA burden analysis.

Since the prior submission to OMB, however, the number of businesses engaged in the sale of merchandise by mail or by telephone has changed. Data from the U.S. Department of Commerce 2009 Statistical Abstract<sup>5</sup> indicates that between 2000 and 2005 the number of businesses subject to the MTOR grew from 26,800 to 33,600, or an average increase of 1,360 new businesses a year [(33,600 businesses in 2005 - 26,800 businesses in 2000) ÷ 5 years].<sup>6</sup> Assuming this growth rate continues, the average number of established businesses during the three-year period for which OMB clearance is sought for the Rule would be 41,760<sup>7</sup>:

Year:	Established Businesses	New Entrants
2010	40,400	1,360
2011	41,760	1,360
2012	43,120	1,360
Average:	41,760	1,360

In an average year during the three-year OMB clearance period, staff estimates that established businesses and new entrants will devote 2,401,000 hours, rounded to the nearest thousand, to comply with the MTOR [(41,760 established businesses x 50 hours) + (1,360 new entrants x 230 hours) = 2,400,800].

<sup>5</sup> See Table 1008, "Retail Trade - Establishments, Employees and Payroll: 2000 and 2005," U.S. Census Bureau, Statistical Abstract of the United States: 2009 (128th Edition), Washington, DC, 2008 (<http://www.census.gov/compendia/statab/tables/09s1008.pdf>).

<sup>6</sup> Conceptually, this might understate the number of new entrants in that it does not factor in the possibility that established businesses from an earlier year's comparison might have exited the market preceding the later year of measurement. Given the virtually unlimited diversity of retail establishments, it is very unlikely that there is a reliable external measure of such exit; nonetheless, as in the past, the Commission invites public comment that might better inform these estimates.

<sup>7</sup> As noted above, the existing OMB clearance for the Rule expires on January 31, 2010 and the FTC is seeking to extend the clearance through January 31, 2013. The average number of established businesses during the three-year clearance period was determined as follows: [(33,600 businesses in 2005 + (1,360 new entrants per year x 5 years)) + (33,600 businesses in 2005 + (1,360 new entrants per year x 6 years)) + (33,600 businesses in 2005 + (1,360 new entrants per year x 7 years))] ÷ 3 years.

<sup>2</sup> The MTOR does not impose a recordkeeping requirements *per se*. 16 CFR § 435.1(d) provides that, in an action for noncompliance, the absence of records that establish that a respondent-seller uses systems and procedures to assure compliance will create a rebuttable presumption that the seller was not compliant, but the MTOR does not require a compliant seller to maintain any records. Merchants customarily keep records regarding their systems and procedures in the ordinary course of business, however; consequently, their retention of these documents does not constitute a "collection of information" under OMB's regulations that implement the PRA. See 5 CFR 1320.3(b)(2).

<sup>3</sup> 71 FR 60530 (Oct. 13, 2006); 71 FR 77751 (Dec. 27, 2006).

<sup>4</sup> Most of the estimated start-up time relates to the development and installation of computer systems geared to more efficiently handle customer orders.

The estimated PRA burden per merchant to comply with the MTOR is likely overstated. The mail-order industry has been subject to the basic provisions of the Rule since 1976 and the telephone-order industry since 1994. Thus, businesses have had several years (and some have had decades) to integrate compliance systems into their business procedures. Moreover, arguably much of the estimated time burden for disclosure-related compliance would be incurred even absent the Rule. Industry trade associations and individual witnesses have consistently taken the position that compliance with the MTOR is widely regarded by direct marketers as being good business practice. Providing consumers with notice about the status of their orders fosters consumer loyalty and encourages repeat purchases, which are important to direct marketers' success. Accordingly, the Rule's notification requirements would be followed in any event by most merchants to meet consumer expectations regarding timely shipment, notification of delay, and prompt and full refunds. Thus, it appears that much of the time and expense associated with Rule compliance may not constitute "burden" under the PRA.<sup>8</sup>

**Estimated labor costs:** \$47,108,000 (rounded to the nearest thousand)

FTC staff derived labor costs by applying appropriate hourly cost figures to the burden hours described above. According to the most recent mean hourly income data available from the Bureau of Labor and Statistics, average payroll in 2008 for miscellaneous sales and related workers was \$19.62/hr. Because the bulk of the burden of complying with the MTOR is borne by clerical personnel, staff believes that the average hourly payroll figure for miscellaneous sales and related workers is an appropriate measure of a direct marketer's average labor cost to comply with the Rule. Thus, the total annual labor cost to new and established businesses for MTOR compliance during the three-year period for which

OMB approval is sought would be approximately \$47,108,000 (2,401,000 hours x \$19.62/hr.), rounded to the nearest thousand. Relative to direct industry sales, this total is negligible.<sup>9</sup>

**Estimated annual non-labor cost burden:** \$0 or minimal

The applicable requirements impose minimal start-up costs, as businesses subject to the Rule generally have or obtain necessary equipment for other business purposes, *i.e.*, inventory and order management, and customer relations. For the same reason, staff anticipates printing and copying costs to be minimal, especially given that telephone order merchants have increasingly turned to electronic communications to notify consumers of delay and to provide cancellation options. Staff believes that the above requirements necessitate ongoing, regular training so that covered entities stay current and have a clear understanding of federal mandates, but that this would be a small portion of and subsumed within the ordinary training that employees receive apart from that associated with the information collected under the Rule.

**Willard K. Tom**

*General Counsel*

[FR Doc. 2010-558 Filed 1-13-10; 8:45 am]

**BILLING CODE 6750-01-S**

## GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0274]

### Public Buildings Service; Submission for OMB Review; Art-in-Architecture Program National Artist Registry

**AGENCY:** Public Buildings Service, (GSA).

**ACTION:** Notice of request for comments regarding a renewal to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding Art-in-Architecture Program

National Artist Registry. A request for public comments was published in the **Federal Register** at 74 FR 31278, on June 30, 2009. No comments were received.

The Art-in-Architecture Program is the result of a policy decision made in January 1963 by GSA Administrator Bernard L. Boudin who had served on the Ad Hoc Committee on Federal Office Space in 1961-1962.

The program has been modified over the years, most recently in 2000 when a renewed focus on commissioning works of art that are an integral part of the building's architecture and adjacent landscape was instituted. The program continues to commission works of art from living American artists. One-half of one percent of the estimated construction cost of new or substantially renovated Federal buildings and U.S. courthouses is allocated for commissioning works of art.

Public comments are particularly invited on: whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

**DATES:** Submit comments on or before: February 16, 2010.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Harrison, Public Buildings Service, Office of the Chief Architect, Art-in-Architecture Program, 1800 F Street, NW., Room 3341, Washington, DC 20405, at telephone (202) 501-1812 or via e-mail to [susan.harrison@gsa.gov](mailto:susan.harrison@gsa.gov).

**ADDRESSES:** Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to the Regulatory Secretariat (MVPR), General Services Administration, 1800 F Street, Room 4041, NW., Washington, DC 20405. Please cite OMB Control No. 3090-0274, Art-in-Architecture Program National Artist Registry, in all correspondence.

#### SUPPLEMENTARY INFORMATION:

##### A. Purpose

The Art-in-Architecture Program actively seeks to commission works from the full spectrum of American artists and strives to promote new media and inventive solutions for public art. The GSA Form 7437, Art-in-Architecture Program National Artist Registry, will be used to collect information from artists across the

<sup>8</sup> Conceivably, in the three years since the FTC's most recent clearance request to OMB for this Rule, many businesses have upgraded the information management systems needed to comply with the Rule and to track orders more effectively. These upgrades, however, were primarily prompted by the industry's need to deal with growing consumer demand for merchandise (resulting, in part, from increased public acceptance of making purchases over the telephone and, more recently, the Internet). Accordingly, most companies now provide updated order information of the kind required by the Rule in their ordinary course of business. Under the OMB regulation implementing the PRA, burden is defined to exclude any effort that would be expended regardless of any regulatory requirement. 5 CFR 1320.3(b)(2).

<sup>9</sup> Based on a \$13.786 billion average yearly increase in sales for "electronic shopping and mail-order houses" from 2000 to 2007 (according to the 2009 Statistical Abstract), staff estimates that total mail or telephone order sales to consumers in the three-year period for which OMB clearance is sought will average \$265.5 billion. Thus, the projected average labor cost for MTOR compliance by existing and new businesses for that period would amount to less than 0.018% of sales.