

ADNSW Submission on Application for Exemption under the Age Discrimination Act 2004

I refer to your email dated 12 November 2023. Thank you for inviting Anti-Discrimination NSW (ADNSW) to make a submission in relation to the Australia Human Rights Commission's preliminary decision to refuse the application from Carnival plc trading as Carnival Australia (Carnival) for an exemption under section 44 of the *Age Discrimination Act 2004* (Cth).

ADNSW opposed the granting of the exemptions proposed by Carnival in 2010, 2013 and 2017. We did not make a submission in 2019.

In relation to the current exemption application, ADNSW's position remains consistent with previous submissions. We oppose the extension for a further period of 3 years. We support the Commission's preliminary decision to refuse the application from Carnival. The current exemption application appears to be in identical terms as the 2019 exemption.

ADNSW relies on the reasonings provided in previous submissions. We reiterate the following concerns:

- The exemption appears to be inconsistent with the purposes of the *Age Discrimination Act 2004* as the age restriction does not provide a bona fide benefit to persons of a particular age; nor does the age restriction intend to meet a need that arises out of the age of a person; and it is not intended to reduce disadvantage experienced by people of a particular age.
- The 19-year-old age restriction is discriminatory towards people of a particular age group, regardless of whether they are accompanied by a responsible person.
- The restrictions in Carnival's exemption and the application of the restrictions at the sole discretion of Carnival, leaves open the potential of discrimination under other grounds.
- The *Anti-Discrimination Act 1977* (NSW) prohibits discrimination on the ground of age, in the provision, inter alia, of services or accommodation. Should ADNSW receive a complaint against Carnival that alleges a breach of the *Anti-Discrimination Act 1977* (NSW) on the ground of age, then notwithstanding any grant of exemption under the *Age Discrimination Act 2004*, the President of ADNSW would be obliged to investigate the alleged breach of the NSW Act.

Further, ADNSW submits:

- The exemption is sought for reasons unrelated to the objects of the Age Discrimination Act.
- The exemption sought appear to be unreasonable and not appropriately targeted towards managing health, safety and security issues of persons onboard cruises in Schoolies periods.

- Carnival's application includes a discretion to waive the Responsible Adult Requirement. Carnival provided the factors which it considers in determining waiver requests includes: "the risks of an unauthorised event occurring, the risks of secondary supply of alcohol to minors or any other risks of excessive behaviour." ADNSW is concerned that these factors are ambiguous, subjective and provide Carnival with unlimited discretion in relation to waiver decisions.
- There is a lack of transparency about how Carnival uses its complaint handling process to determine waiver application decisions and appeals.

I hope these comments assist the Commission in making its decision.