

MONACO MANAGEMENT MEETING
Tuesday 22nd April 2008

THE GRAVY TRAIN: How much training is needed and how much investment is required?

Joey Meen	PYA/Ask Joey
Peter Hurzeler	Ocean Independence
Peter Domladis	Cayman Islands Shipping Registry

Chairman— Martin Redmayne
Tork Buckley

The final session. There's been a lot of discussion obviously about all these issues, about investing in the market and how much training is needed—in fact the training can't even be given away by people like Blue Water—

Tork

Well they haven't actually tried it?

Martin

So we're now going to discuss the level of investment required and the actual additional training required, the non mandatory training required and stuff like that. I'm going to start off with the three panellists introducing themselves very briefly—I know Peter has a little sort of verbal CISR presentation and then we'll have the other two panellists to have their 5 minutes of fame as well. So, introduce yourselves and then we'll carry on—Peter.

Peter Domladis Cayman Islands Shipping Registry

Good morning everybody. I'm responsible for Cayman Islands Shipping Registry crew compliance matters. I am the one who is deciding what is appropriate minimal safe manning documents for commercial ships as well as for yachts. Recently even for yachts of less than 500 gross tons and more than 24 metres in length. My background is commercial industry, I am a master mariner, started with bulk carriers and load carriers, dirty ships, you don't want to talk about them. Rusty. Never been on yachts, I look at yachts on TV and fancy magazines and I was class surveyor again involved with rusty ships in dry docks crawling through deep tanks, ballast tanks, side tanks, you name it. And then I was fed up with this so I decided to change career. So what I thought then, I said let's go to some easier industry. Wrong! It is yachting industry becoming for me more brainier than commercial industry. Facing every day zillions of questions from ship managers, crew agencies, and more recently from crew. Someone yesterday said that oh, crew doesn't have access to internet on yachts. I could tell them about that access because they have an ability of 24 hours disregarding time difference to call **Peter** Domladis on cellphone. 3 o'clock in the morning, 5 o'clock in the morning, so **Peter** Domladis has new policy. Cayman Islands time is 8.30 in the morning, 5 o'clock in the evening. Between 5 o'clock in the evening and 8.30 in the morning my mobile phone is—thanks to stewardess who want to bring their boyfriend on a yacht and they want to know what qualifications he needs—my phone is switched off. I have all sorts of females phone calls, interesting one is 4 o'clock in the morning Heathrow Airport—I mean 4 o'clock in the morning Cayman time—stewardess going to join one yacht and she said oh Mr Domladis, I just passed my pregnancy test and what need I do to obtain my seaman's discharge

book? So I said I'm not father, am I? I mean, what I'm trying to say is there are more serious questions like email I have received yesterday from one captain of a yacht, he said I have an excellent guy, he's with me for last 2 years, he's experienced engineer, we want to charter this summer and first available course for him is next autumn so he has no qualifications, no exams, can he be a chief engineer on my yacht? Answer is—no. So he come back to me with another email say sorry but we need to charter, our broker has already booked us for the first three weeks of June etc, so I almost said which part of NO you don't understand? No certificate, no dispensation. So my point is this industry becomes more demanding every day, and every minute. There are questions and questions and questions. I must say some of them are very challenging, some of them you really need to sit and think—but problem is that shortage of qualified experienced and certificated chief engineers in one person, that's one problem. You have experienced but not qualified, or you have inexperienced who is qualified but can be accepted on a yacht. My job is taking me from one yacht to another as a surveyor, I just said before as a joke—before I used to say I wear many hats—port state control hat, auditor hat, surveyor hat, crew compliance hat. Since we have also shortage of crew on board in Cayman Islands they added a couple more hats so I was fed up with changing hats so I have a big sombrero, to cover all my responsibilities and tasks which I carry around. So later on I have prepared—I mean we have prepared some sort of policy manual which I would like to present to you if you will have 5 minutes or more and I would like my colleagues to speak.

Martin

Thank you Peter. Joey please?

Joey Meen PYA/Ask Joey

Hi. Yes, I haven't got quite as many exciting stories as Peter but my background is 17 years in the yachting industry, 10 years running a RYA school/MCA in the UK in Plymouth and then working with Freedom Yachting Blue Water for 4 years. Ask Joey was born from that because people kept asking me things, so I had to find out the answers. And what I find that crew have been asking me is career paths, where they can go, and I think one of the biggest problems that we have is a lot of the crew don't actually know where to find the answers and I don't think they have a direction necessarily with careers. I think the majority of stories I get—not quite at 5 o'clock in the morning, but I do seem to have people calling me at all hours of the day or night—is a little bit of confusion about the career path. Particularly the deck side and with the new regulations under 1802 that the MCA brought in—I've got a lot of clients that need help with interpreting the training record book and sea time and watch keeping time. So that's what I do, I help crew. And I'm quite concerned—I think a lot, 90%, of the crew really want a career in this industry and I think sometimes they're held back a little bit with attitudes from other crew members or even from not being encouraged on board. I think it costs them a lot of money to do courses and I think that's something else that needs to be looked at. Although they are getting a good wage for it and they're not coming out like a university student with debts that they have to spend years paying off, I think there's still an issue there with the financial side of it. And time is probably as much of an issue as the money as well. So that's my small part in the industry—to try and help and encourage crew.

Martin

Thank you. Peter—one of the things that has been mooted in the last 24 hours that you may not have heard obviously is that people are suggesting there's a levy imposed on sales of yachts to finance the development of careers and training

Tork

A very small one

Martin

What are your thoughts?

Peter Hurzeler Ocean Independence

Well I have to think about that one for a moment. But we have somebody here from the authority, we have somebody here who is supporting crew. My role I guess is to also talk a little of the role of the owners and the owner's side. I'm coming from this great seafaring country called Switzerland and my background is also commercial shipping, I started as a deck officer and sailed 10 years on general cargo vessels, finished with a master licence, then came into yachting, skippered 38 metre sailing yachts for about 3 years and gradually turned to become manager broker since about early 1990s. Since then we've developed what used to be Ocean Crews into Ocean Independence and together with my partner Nick Dean we are running this company with 12 offices worldwide, about 70-75 staff and hopefully growing. And our Ocean management division takes care of management and project supervision, also placed in Switzerland because of the good traffic connections. My view on the industry is that it is a great industry, it is a booming industry obviously, from a broker's perspective we've had great years but we see a lot of issues that we together as an industry need to sort. We cannot do it as individual companies, we cannot do it as individual brokers, or management companies. We need to try and get together and sort the problems together. On the brokerage side—where I have been president of the Mediterranean Yacht Brokers Association for 3 years—we have been able to do that to some extent by having shared information, by having boat shows for brokers, where only brokers can go, but on the management side as it is a newer addition to the industry it does not look to me that we have achieved that yet. And I think one of the things that we have to look at is can we make a feast together, can we solve our problems together instead of trying to solve them individually. Definitely crew and crewing are major problems for owners. I'm aware that there are major problems for crew as well and we have to try and get the two sides together in a way that it is cooperation and not confrontation. And we've still got a long way to go in that, I believe. And as regards the fee on the sales—it's one way of trying to achieve it—it doesn't really matter where the money comes from, I think it would be wrong to only put it on the owners; I think if I remember my commercial days as a commercial deck officer I did have support naturally from the shipping company to do my courses but by no means was it all paid for, it wasn't just an easy run and then afterwards I was free to decide what I wanted to do. It was on clear terms, I got roughly 50% of my expenses paid but I had the obligation to stay 3 years with the company afterwards. And what I see sometimes in our industry which is logical, and is not a reproach to crew or anybody, is that people are moving too quickly to where the sun seems to shine brighter without thinking about loyalties and obligations and things they have profited from, from owners.

Tork

Yes, this was actually a more broad solution than simply training, although training is kind of the focus for this. The idea was to actually promote the concept of yachting careers in all areas, not only crew but also within shipyards, brokerage, design, etc to educators and to people at school. So it was also to support some help with courses.

Peter

No I agree and if it's about brokers—I agree that brokers as they are an important part of the industry should participate in building this branch as well. But it's a matter of balance, of proportions.

Martin

Any comments from the audience please?

Joey

I'd like to say something—going back to a comment that was made in an earlier meeting about management companies, and their role in supporting new recruitment and new crew, I think there's actually a far bigger role that management companies can take. I don't know how many managers are here, I'm probably going to upset a few apple carts, but that's not the first time. I actually think the management companies have perhaps slightly more responsibility, or as much responsibility to the crew as they would do to their owners and managing the vessels themselves, and I think if management companies can come up with a scheme to help support the crew with training funds for crew, if they've got maybe 4 or 10 boats under management company, why not move crew around, why not give them opportunities to be heading towards chief mate positions on one boat in 2 years time and giving them the support, get to know the crew, find out what they want. I think there's a lot of crew just shuffled around from one boat to the other, they don't seem to feel that they're recognised. And I think there's a lot of potential with what a lot of these guys can do. And they want to learn, a lot of them are like little sponges and they really want to learn but they're never given the opportunity, and maybe management companies now could take a role to actually earn some loyalty from the crew. And perhaps to come up with a package that gives them a bit more longevity in the industry. Just a thought.

Peter D

Back to training centres and quality of training. There are shining examples of good quality training and knowledge delivered to their students but also there are some not so shining examples like we were talking yesterday about safety management systems on yachts of less than 500 gross tons. So this is a live example from a field. I was in St Martin on a small yacht and we were discussing safety management systems within which is also voyage planning and charts etc. So the captain of that yacht less than 500 gross tons asked me—as a colleague, two captains—I will be on a sailing yacht and I will do passage plan. Since sailing yacht is tacking from port to starboard am I still required to draw a straight line on the chart? I was trying to maintain my stone face and I didn't know whether I should cry or laugh. I explained to him what is passage plan etc etc but—I am not saying this is representative of an industry but I was wondering how come that guy—and I was really thinking at that moment to withdraw his licence. Because part of commercial requirements for a yacht is also that his certificate of competency should be recognised and in this respect endorsement to recognition of his COC to be issued. And I was really thinking, which I am empowered to do, to withdraw his endorsement. I'm trying to illustrate what we are facing once we are out in the field. Luckily for previous day and a half you didn't mention too much flag states, flag authorities, and their responsibilities. I am always saying when doing various audits that by asking about responsibility I am also asking about authorities, because what I think, that responsibilities cannot go without authorities. So we have as a flag state, we have authorities but also we have responsibilities. Everything is starting with flag state. Flag state as an extension of IMO will impose rules, regulations, from which you have

minimum safe manning documents, just to name one, in respect of manning requirements. And previously I was on a panel for crew agreements, which is also our requirement. Rest and working period is also our requirement. I mean everything starts with flag state. Then it was on you, crew agents, management, whoever, within the industry to implement these requirements on the ground, to make these requirements working. Then we are coming down, checking how you are doing your job, on yachts, we are coming back to your head offices, checking with DOCs, we are issuing observations, findings, non conformities, sometimes major non conformities, sorry! Then you are going back to your yachts but everything starts with flag state and somehow, when the circle is closed, it's coming back to flag state. Also you were talking yesterday about crew rights and crew agreements and some owners, not responsible owners, not so rightfully dismissing crew. I would like to say that there is a tool for crew in this respect. You don't need to go directly to court and sue irresponsible owners. There is a tool which every Red Ensign group flag has and it's called Shipping Master. Shipping Master job and responsibility and authority is to look at crew complaints. He will review his or her complaint, he will write to relevant owner asking certain questions because there are always two sides of the coin.

Tork

That function is somebody within CISR?

Peter D

Absolutely. And every Red Ensign group flag has a Shipping Master which is a requirement from UK Shipping Law. And it's also Shipping Master as a person is sitting in Cayman Islands Shipping Registry.

Tork

And what power does he have over the owner?

Peter D

He has no power basically. His job is to assess crew complaint, go back to the owner, ask him certain questions and depending on his answer he will decide whether this is something which Cayman Islands Shipping Registry of Maritime Authority of the Cayman Islands need to take onward and forward or is something that unfortunately crew needs to sort out in front of a court on a civil court.

Tork

Just to hold you there, that's extremely interesting and I doubt that many people are actually aware of that. A show of hands please—who was aware of that facility within Red Ensign Group? 3 people.

Martin

How do you promote it?

Peter D

It's in the law. Let's go back to training and business for Shipping Master. This is there. Every officer on commercial ship—when I'm saying commercial ship I'm including tankers and commercial yachts, because they are commercial vessels when they are engaged in trade—so every officer needs to know which is part of SSAW Convention 110 needs to know basic law and regulations of flag

administration. In Cayman Islands we call this Cayman Islands Law and Procedure, famous LAP. And my fault, mea culpa, our LAP manual is a little bit outdated but it's still there, the basics are there. Since then we changed some sections of Cayman Islands Shipping Law but basics in the LAP are there. So within Law and Procedures is a person of Shipping Master, which every officer on Cayman Islands vessels should know, let alone officers and management level which means captains, chief mates, chief engineers and second engineers. So when I am going on board and asking questions about Cayman Islands Shipping Law—and by the way responsibility whether officers on Cayman Islands vessel are familiar with Cayman Islands Shipping Law, onus is on ship owners, ship managers. Because you are signing page 2 on Cayman Islands application for endorsement of their certificates of competency. So may I ask you how do you assess the knowledge of Cayman Islands laws and procedures?

Tork

I think you had a point anyway, Phil, perhaps though as a manager you might want to respond to that letter?

Phil Rose IYC/Trinity (representing PYA)

It wasn't relating to that, actually, the point I was going to raise. I was actually reading what was on the board and a couple of the comments that came up in initial addresses as to quite how funding, or the payment for training should come about. And actually I have just sat here and it's suddenly occurred to me that one of my daughters has just finished 4 years at university here in France—and it's just occurred to me for the first time that that's cost me somewhere in the region of €60,000 and just thinking about that, a friend of mine's daughter at the moment is currently at university and she's studying at Edinburgh to be an engineer actually, but an engineer in micro biology

Tork

I don't think we're quite there in propulsion yet!

Phil

We're getting there. But the point is she's not in the position that I'm in to be able to finance my daughter so she's had to go to a bank and borrow the money on a student loan so it means that after she's finished her degree course in 4 years' time she will then be in a position where she's having to pay it back. And it sort of falls in with the second line up there. That I think is something we mustn't forget—that when we bring people into this industry it is as much their duty to invest in their future as it is our duty to make that training financially available and easily available for them in a career path. Where we could really make progress is if we're in a position through an organisation or through member organisations within our industry to make similar type student loans available that are repayable over a period of time instead of people to come into the industry on the low salaries to start with and then having to come up with huge amounts of money in order to be able to even start their training.

Tork

Yes, I think we said this yesterday—there should be a kind of two way thing. A certain amount of investment shows keenness and qualifies you to get your career started. But it shouldn't be too heavy a burden at that point, because after all you may not want to stay in after 6 months. But as you progress, then that concept kicks in very effectively because you've committed yourself to it you invest in your future.

Jon Ely

UKSA

I think I'm agreeing with you here. I think it's important that we're able to encourage first of all, to subsidise people to come in. I think it's very easy to earn the commitment back very quickly, with the salaries that are paid. The other point that's very relevant—it's not just funding. It's the ability of people to be able to see that career progression. And I think when you're competing, which we are, with youngsters going to university, you have to give them a viable alternative to university. And again, we were talking about the gatekeepers, the people who are making the decisions on where these youngsters train. And people here who are parents who've put their kids into university do so because they believe they're giving them advice that will set them up for life. And I think we've got to address that within our career progression for people that are entering at a young age.

Peter H

I fully agree with that but I think the solution can only be that together we are going to put such programmes to life, let's say. Because if you look at it seriously we are such a fragmented industry still, and of course crew are the biggest number of individuals involved in the industry. But even in larger management companies the numbers that they are dealing with are actually minimal, by comparison to other industries, to shipping in general. So to believe that an owner, to start at a very small unit, an owner could do something about it, is just not feasible. Management companies—maybe the biggest one could, and they are trying to occasionally put something together—but at the end of the day it can only be the management industry let's say, the yacht management industry that together can achieve something. Because if you look at it again from an owner's point of view, he loses so much crew and he can obviously not offer a career plan, if you've got a 40 metre with 10 crew you cannot offer career plans, as an owner. It's totally impossible. You need the management industry—

Tork

But even on a 40 metre you can actually within the scheme of things offer time, subsidised training in exchange for longevity and then accept that you are ultimately going to lose that ambitious person but you may also gain somebody from another yacht who has equally been trained by an enlightened owner. And if that culture of nurturing the industry becomes common then nobody really loses.

Peter H

Yes, but how do you convince people that they will actually then profit from another hopefully equally benevolent owner around the corner and that he will actually get the trained crew member from another vessel? I think it needs bigger numbers. It's a game of numbers at the end of the day. And this is why it works in commercial shipping—that is huge numbers and therefore training works, and we have to get it together somehow. I'm not saying we shouldn't do it, but we have to do it together otherwise we won't make it work.

Jon

I'm very keen that we shouldn't put too many barriers in the way of this and make this too impossible for ourselves to achieve. I mean as a small training organisation with a comparatively small budget setting this up we've got 35 people on programme each paying £24,000 to do a 3 year integrated programme. So people are out there and they are willing to commit to the industry. And the perhaps the people I've got, the enlightened ones, the ones that have the high desire—

Tork

Or the ones with the money?

Jon

But if this is what I can do, in a small way, if we can get something attractive, industry-wide, I believe that we can open some doors to get a significant number and don't forget we're not looking to supply huge numbers coming through annually—compared to other construction industries or whatever. We're talking about relatively globally small numbers of people entering each year.

Tork

Norma has a point and then I think Peter wants to contribute something.

Norma

Well Peter's point that the numbers don't pan out for individuals is probably true and it might not be feasible for every yacht to have ongoing training and career track opportunities for their crew but there are ways for that to work and I think a great example to talk specifically and we've written articles about him and I know he has no problem with it being discussed, Captain Aaron Clark on the Palmer Johnson Four Wishes—when he joined the boat—I met him when he was running a boat with no crew quarters at the first America's Cup in New Zealand and still had a smile on his face even though he was sleeping in the wheelhouse every day and he had up to 60 guests and now he's the captain on this boat and when he took the job for 4 American owners, he said to them—I'm not somebody that wants to have people that want to come and go, so if you'll allow me to develop a programme and present it to you I think I can make this work. And in fact he's done so, he met a nice young potential first officer candidate, he took the trouble himself to set up a 4 year training programme for Shannon, his mate, and start out with everything from—I think Shannon already knew how to tie a bowline—but going through every single bit of training that was required, not only seamanship but going into the licensing, arrange with the owner for him to have his required 2 months off per year, worked it into the charter schedule, paid for the training as it went on and at the end of 3 years Shannon's reward is a very nice captain's licence and Captain Aaron Clark's reward is that Shannon accomplished a lengthy trans-Atlantic crossing on behalf of the captain so that the captain and his next newly trained chief stewardess who ended up being his wife, had the time to actually go and get married and so on. And the owner's reward is an extremely well run vessel, a super stable crew, and a very happy situation—and in fact they're one of the highest priced charter boats that's out there and they're able to command that price because they have really high end crew and they can say this is going to be your crew on board because of the programme that this captain went out and created and sold to his owners and actually to be honest with you the only thing that surprises me about this is that his management company doesn't look at that and say you know, that really works, maybe we should encourage some of our other captains to do that on our other boats, because according to him and according to his charter manager, not only is it one of the most popular charter vessels but the profitability rate of that boat is the highest in their entire fleet. And we're talking a very large management company. So that's just one example. But I think it can be done but that's one captain making the effort to do it. And I wish we had lots of captains that have the gumption to put something like that together, lots of first officers who are willing to go along with it and management companies that would encourage that type of thing because it works.

Martin

Yes, Peter?

Tork

Yesterday we had a surfeit of Johns, today we have a surfeit of Peters.

Peter H

No I fully agree.. I absolutely do believe it works, but the fact alone that you've written about it and that you mentioned how unique it is shows that it's not happening often enough. And I actually do believe it's not going to happen on a wider scale unless it's picked up at management level or at the level of the management companies because to do it individually for every boat has a certain lifetime but after like you said, 3 years for example, the people will move on. They will move on to bigger boats, to other boats, and it doesn't actually help if we have a lot of captains out there with a lot of good crew—for the industry it doesn't help. It helps for the individual owner and the individual captain, and maybe two or three years. I think what we should try to achieve is solution for the industry, where there is a career plan like there is in commercial shipping, where we talk about rotations, where we talk about how you go from deckhand to captain, or from stewardess to chief stewardess purser, whatever. So something that is actually commercial solution and not an individual solution, boat by boat, captain by captain. Also because captains today have a very full plate when it comes to running a vessel under ISM and then if they then also have to get involved in how specifically to structure individual crew training for each of their crew members, it's not just going to be manageable. I believe personally it's got to be tackled by the management industry jointly and otherwise it's going to be very very difficult.

Tork

But can you start such an initiative within your company?

Peter H

Well you are doing that right now, aren't you, somehow, with the industry. No we at Ocean management and we are not a very large management company—we have now 12 or 14 boats under management, but obviously it's something that concerns us greatly and again, we feel that we don't have the numbers together yet to make it work on a wider scale. Individually yes, some boats yes. But not in a way that I with my background would call it a commercially viable long term solution. It doesn't work out in numbers.

Peter D

I would agree with you up to a certain extent, as flag state. Problem is that onboard training, ongoing training etc is good and I would welcome such training. However, there is always one—this would work as long as we call pleasure vessel not engaged in trade. When comes to charter, then you need to have appropriately certificated crew on board. That means captain with a certificate, officers with a certificate as appropriate to size of yacht, chief engineer with certificate, all crew with at least STCW certificate and not to mention valid medical certificates and crew agreements again, back to crew agreement.

Tork

Peter, but when you step on board a vessel—I mean you touched on yacht training not as a substitute for certification but what's your take, when you visit these vessels, do you find that there is appropriate onboard training taking place as well as obviously having certified mariners?

Peter D

I must here disconnect my private Peter side of the brain and I must talk as a flag state as I'm representing here a flag state, a very responsible flag state, as you know, Cayman Islands has a majority of pleasure vessels under its flag. So apart from MCA and UK law, we have no requirements as to manning on pleasure vessels not engaged in trade regardless of the size. So we have yachts of 8,000 gross tons under flag which are registered as a pleasure vessel not engaged in trade and therefore all certificates issued to that vessel are on a voluntary basis even ISM, ISPS, DOCs, safety equipment, safety construction, loadline, etc etc. Because all these certificates are not applicable to vessels which are not engaged commercially. Therefore back to training. I have an email here, I will quote—*He has been with us for a year and has given every satisfaction. He has considerable previous experience as an engineer at sea but he has never taken the course nor passed the exam. We have attempted to replace him with an engineer qualified to requirements but there is an extreme shortage and we have been unsuccessful. Our engineer is willing to take the relevant course next Autumn and to take the appropriate exams but we have a problem for the current summer*—They want to charter tomorrow. So back to pleasure vessels not engaged in trade—

Martin

But **Peter**, do you think they'll go ahead with the charter?

Peter D

No, not with this crew because rules are rules. By the way STCW convention as such is out there since 1978. it says in regulation applications—not applicable to fishing vessels etc etc and then it says not applicable to pleasure vessels not engaged in trade. What I see is—I am a newbie in yachting industry, I'm with Cayman Islands Shipping Registry only since January 2004. So all this questions, all these issues and matters that we discuss here are quite new to me and I'm trying to help this industry as much as possible. On the previous session you were talking about minimal safe manning documents and downgrading requirements. Sorry, ladies and gentlemen, it's not downgrading requirements, it's playing with the rules. Rules are there, rules are called rules—they are more guidance. You call them MSNs, MGNs, LY2 code, these are rules which are out there—LY1 code came into force 1998? Something like that. So guys, you have rules there since 1998 and today is 2008, good morning! It's only ten years and we are discussing here yachts less than 500 gross tons and less than 3,000 gross tons, after 10 years. So tomorrow you have yachts which are coming out, we are having them under flag which are over 3,000 gross tons. So when you will start to discuss these vessels? I must say they call me crazy Croatian in Cayman Islands Shipping Registry—because I get easy excited and I love my job, I'm very passionate. So I'm not from a northern hemisphere and I can't be cold. Sorry.

Tork

I just want to ask the other Peter a question about the other end of that equation because you said here is a yacht under 500 under 24, wanting to charter because

they've been asked to charter. From a MYBA perspective do you have a code of practice for MYBA members with respect to the charter broker who asked that yacht to charter, which is incapable of chartering? Could I assume that a MYBA member charter broker would never have asked for that yacht, would have verified it was incapable of chartering, that it wasn't seaworthy in the broad sense?

Peter H

I think there is various mechanisms that you got to consider. Charter brokers, charter managers, and of course the operational managers, these are all different roles. So within the structure let's say of how brokerage works, you've got a charter broker who has a client who wishes to charter a yacht. So he's going to look in the database, in the database of the charter brokers world wide for a yacht that's suitable. Now who puts that yacht into the database? That's the charter manager. And according to the way that the structure is understood, the charter manager is in principle responsible that the yacht that is offered for charter is actually certified to charter, that includes obviously the crew, who should be qualified to charter. But the charter broker at the outer end is not the one and shouldn't be the one, otherwise the whole system is going to fall apart, who will have to look at every certificate of the yacht of the crew, all the individual crew members.

Tork

So that's the charter manager who does that?

Peter H

The retail charter broker would not look at that, the charter manager has to look at that and has to be aware of that. Now on the bigger yachts the charter manager and the operational manager are again two different people, and it's a matter of how the internal structure works, how the internal flow of communication is, if it's internal, because sometimes it's an external management company doing the operational management, whereas the charter management is done by a brokerage company. And it's a matter of how do these companies relate to each other, how do they communicate between each other, where the structured bit of information would actually find it's way to the charter manager, and then from the charter manager to the retail broker, who might be thousands of miles away.

Tork

But do you, as an association, have a kind of guide, a code of practice that sets up those lines of communication with reference to certification?

Peter H

Not lines of communication. But the responsibilities—the responsibility is clearly with the charter manager or the so called central agent who is putting the yacht onto the MYBA net system in this instance or who is then forwarding the charter agreement to the owner for signature. The liabilities, or the obligations, are with the charter manager.

Tork

Are they also responsible in a dynamic sense for ensuring that at any one given point in time that the yacht is operated in a manner consistent with hours of rest?

Peter H

In principle the answer to that is yes, but again then, the question is how does the liability go after that. Let's say you have a management company who does operational management of that yacht, then the charter manager would probably do the due diligence with the operational manager and the obligation that the information that he gives with regard to certification and the qualification of the crew would be with the operational manager. So I think it depends on whether the yacht is operationally managed by another management company or not. But definitely from my perspective, definitely makes no sense, is that everybody in this chain has to do his due diligence all over again because that's not what we're here for. So the retail broker has to be able to rely on the charter manager. If the charter manager has a management company which is in charge of managing the vessel, let's say ISM, ISPS, whatever, then the charter manager should be allowed to rely on the operational manager of the vessel otherwise it makes no sense. And that is how we deal with it. Amongst brokers or between brokers the charter manager is the responsible party.

Tork

So broadly the buck stops either at the charter manager or in the case of a managed vessel at the yacht manager. And John Leonida would you care to comment as to who you'd go after ?

John Leonida

Clyde & Co

You're painting me as a complete meanie, aren't you?

Tork

Well you look like a meanie, come on.

Martin

It's an easy picture to paint.

John Leonida

There are several, as always, levels to this. If the vessel doesn't comply with all the requirements to enable it to operate commercially and it does operate commercially and there is a casualty, the insurance could be void. So if there's anyone on board that suffers an injury the person who suffers the injury would look to the owner or the owning company for recompense. If it operates commercially and doesn't have all the right bits of paper certainly criminal offences are committed and the MCA or the relevant flag state or port state control could bring prosecutions against the owning company. And in some circumstances against the master. If there is a death on board and we would find that the brokers knew that the vessel wasn't fully ticketed we would certainly look to the brokers as having some complicit role in that and they could be a target for litigation.

Tork

So basically we come back to the fact that it's in everybody's interest in that whole chain to ensure that training is a priority for the industry?

John

And to be honest with you, in most of the brokerage houses I work closely with, their commercial manager, the operational managers, are pretty much on top of what's going on on a vessel and the last thing they will do is want to compromise the safety of their crew. There are very few yachts that I've come in contact with over the years where I've been asked to look at the charter side of it where I've put a red flag up and said don't go near this boat. It's happened once or twice but I've seen that yacht charter and it's shocking, but a particular yacht will charter when you know the tickets are not all in place. One particular yacht which I won't name because I don't know what her current status is, but when I looked at her two years ago every single piece of paper that came with that yacht was provisional or temporary, certain documents were not in place at all, a lot of the crew, certainly the hotel staff on board—the interior crew, were waiters from local restaurants, they hadn't got STCW and a particular brokerage house was offering that vessel for charter. I kept my clients well away from it.

Martin

What flag?

John

It would give it away. OK, it was Panamanian flagged.

Tork

Barbara, I think you've got a point?

Barbara Tambani

Floating Life International SA

The fact of having a boat managed by a different company that is not involved in the brokerage, or the charter of this boat, does not mean that the boat is not well kept. If the charter manager is the person responsible for checking the crew certificates, first of all the charter manager should be instructed as to who is supposed to be on board and which certificate should this person have, and I think not all of them are really prepared in that, because it's a very technical issue, but I don't think that going back to the globalisation issue, that a boat is well managed because it's all internally made. Charter managers should be instructed and should be responsible for checking the boat and the crew members' certificates that are advertising, marketing, whatever.

Peter H

From a brokerage point of view and looking at the volumes that the charter managers are dealing with today, if we charge charter managers in case of vessels being managed by whoever, doing doubling up on the management of the vessel I think that commercially makes no sense. So there have got to be some liabilities and responsibilities in this chain, I fully agree that it doesn't make a difference whether it's internally managed or externally managed or whoever manages the boat, it can be captains that manage but it's got to be defined who's responsible for what. And if the charter manager has agreed to rely on the operational manager which in our case is certainly how we operate it, then the charter manager is not going to check all the crew certificates again and again because with the crew changes, all the changes happening even throughout the season, it just wouldn't be manageable. And after all, ISM boats for example, of course the operational manager is responsible that the boat is always fully manned, properly qualified personnel is on board, etc. So from a

commercial point of view it makes no sense that the charter manager should check again. Because where would it stop. It would have to be everything, and that's not what you have an operational manager for.

Tork

Our crazy Croatian has something to add and also Joey.

Peter D

There are two points here that I would like to make. Sorry you are representing insurance?

John Leonida

No I'm a partner in a city law firm.

Martin

So be careful!

Peter D

OK. My understanding is that brokerage—major management companies started as broker companies and they continue into yacht management so—probably I'm wrong here so correct me—but it is a case of left not knowing what right hand is doing. Because same house is offering that vessel for a charter, believe me I have numerous cases and evidence, for example Christmas charter. Vessels which are offered for charter—charter was sold and no crew on board and it was—Peter, I need dispensation, I need dispensation. So somehow problems of the industry become our problem. We don't like this. We are not problem solving, we are setting rules and regulations you need to follow. And then it's the fault of flag state, and flag state is not responsive, flag state has no client orientation, flag state is all sort of calls to my boss saying oh, your Peter is not giving dispensation for chief engineer, oh he has requirements for second engineer etc. And all because vessel is sold for Christmas charter. I don't understand how this inter offices within house are working. Brokerage, management, crewing department, etc, because all these major management companies are also DOC holders. And as such they are responsible for to have all ducks in a row once they have offered a yacht for charter. And back to insurance companies. They are not helping either. Because we have yachts of over 3000 gross tons and we are trying to—even though they are not STCW and other regulations are not applicable because by virtue of mode of operation, private vessel not engaged in trade. However we strongly recommend that high standards be maintained all the time. And then we strongly recommend that all certificates be full STCW certificates, not limited to yachts which are less than 3,000 gross tons. And then management company will come and say oh Peter, but this captain, which is less than 3,000 gross tons—is approved by insurance company. So I mean insurance companies are not helping either. So I'm really confused. On one hand you want to have safe secure environment and charter yachts engaged in commercial activities, you want to earn money, and on the other hand—it's difficult to follow rules and regulations. And sometimes I have a feeling that we are driving left and right because between sections and always finding the easiest way how to circumvent problems. Sometimes it's not possible to circumvent problems because minimum requirements under which we can go are there, and they are published and they are known to everyone. They are on our website, they are on MCA website, they are in SOLAS, MARPOL, you name it. So rules and name of the game are there.

Tork

Joey did you want to change your name so you can make a comment?

Joey

No I was just going to pick up on the fact that with regards to the email that you got from this fabulous wonderful engineer without a qualification—is why he was employed on a boat that required manning levels under a code of practice for charter anyway.

Peter D

Because that vessel was a pleasure vessel not engaged in trade and suddenly the owners decided to charter it because they want to recover—

Joey

So they have to change their code.

Peter D

This is specific in Cayman Islands law. Going back to rules and regulations. We have two types of registration and two types of mode of operation. Two types of registration is pleasure vessel which automatically implies pleasure vessel not engaged in trade, and then we have commercial vessel. Also commercial vessel does not necessarily charter and pleasure vessel, providing that all relevant certificates are issued as applicable to vessel size, length, GT, kilowatts etc, are issued, then even though this yacht is registered as a pleasure vessel it may charter. This will include also manning requirements and minimum safe manning documents.

Tork

Peter, as a flag registry have you looked at simplifying that and simply have a commercial register for those that are capable of commercial operation and a pleasure one for those that are not?

Peter D

No we can't, because this is something which makes Cayman Islands Shipping Registry. This is also in our manning policy manual. Since we have that provision that pleasure vessel may charter provided that all certificates are in place including manning, therefore we decided to all yachts of 24 metres and over which are issued with, which complies with LY2 code requirements and in this respect appropriate certificate is issued, we will issue minimum safe manning document regardless of the mode of operation. That means that at the very beginning, at the very start, we make quite clear to owners, captains and yacht manager what would be our manning requirements. Also in this respect we have put in our minimum safe manning document—area of operation up to 60 miles, up to 150 miles, and over 150 miles from a safe haven. All in order to make clear to whoever may be concerned that what would be our requirements as to manning as if vessel would be engaged in commercial activities. And this little 55 pages is not bedtime reading but I would suggest that you download this from our website, it is in pdf format, and to have this in a drawer when you are asking for dispensations, when you are asking what type of certificate—there are also at the end of manning policy manual are typical maybe requirements for certain yachts as to what certificate would be required for officers etc. But bear in mind that this is absolute minimum.

Tork

Peter we'll be happy to put that pdf on our website as well for people to download. I think John has a response to some of your comments, and then Jorg is following up.

John Leonida

I don't carry a brief for the insurance market at all but from my experience when someone says oh the insurers says it's OK for this captain, I very much doubt that the London market is aware that it is OK, because I doubt if the London insurance market would accept an unqualified master— an insurance broker may get a phone call from a charter broker saying he's had lots of experience and then someone says oh that will be OK and then a phone call gets made to you. But if you ask for written confirmation from the London insurance market that it's OK to have such an unqualified captain master a vessel, or an unqualified engineer , I doubt if you would get it. Because if they're asked seriously they won't give such a letter. Because in every insurance policy there is a phrase that says that the vessel must be seaworthy in all respects and that means from a documentary point of view as well as from a physical point of view. And if it's not seaworthy from a documentary point of view, and that includes not complying with all the safe manning regulations, that vessel will not be seaworthy. And if it's not seaworthy the insurance will be void. Period.

Peter D

Unfortunately I will not answer your questions with yes or no. But believe me they are not empty words. So let it be there.

Tork

Jorg ?

Jorg Wendt D & B Services

I would like to come back a little bit to the management companies and the manning of the boat. As far as I know, or as I believe, is that management companies need to maintain crew lists ashore so MGN 1 11. So as long as the DPAs maintained a crew list ashore they shall be aware about the manning on the boat—

Tork

But that's over 500 gross tons.

Jorg

Well, but we are talking about ISM, we are talking about ISPS so in that case—

Tork

But Jorg the big problem at the moment is the yachts between 24 loadline metre length and 500 gross tons. Above it things are pretty much peachy.

Jorg

Well but maintaining crews ashore is applying in Annexe 2 as well for people who have this mini ISM implemented. So it shall not be an existing problem that the manager does not know who is actually employed on his vessel.

Tork

There is a problem there because as John just shouted out and we talked about this—but the problem is that there isn't the guidance to the manager to know what he has to have, so if he's familiar with ISM he may follow the proper procedures of ISM but if he's not, there's nothing saying that he has to have that crew list ashore. Yes, good sense, good practice, the rest of it, says he should have it ashore. But it's not written down anywhere for him. Nor is it a legal obligation. Although the one that we've been discussing incessantly, the Lady Candida, actually was. But yes.

Jorg

OK so MGN 1 11 exists. And the other thing is I would like to have a question for Peter of the Cayman Islands—I'm aware that if somebody wants to serve on a Cayman Islands vessel he needs to have his STCW certificates endorsed and anybody on the IMO white list would get such endorsement. And he needs to, one of the requirements is actually that he is aware of the Cayman Islands legal and administrative processes. That is not audited by Cayman Islands flag state, it is as far as I know given by attestation from a management or the owning company. And my question is how do you make sure that that signature which goes on the back of the application form, that the guy who signs it, knows actually what he's talking about when he says that a chief engineer, second engineer, master or mate are aware about Cayman Islands legal and administrative processes.

Tork

Actually that was Peter's question to the floor earlier on. He was asking the managers how they know that what they're signing is correct?

Jorg

And I was asking do they audit that the guys actually know what they sign?

Tork

Do you mean the flag state?

Jorg

The flag state. Well because that can't be port state control.

Peter D

First of all, your statement that we will recognise any IMO white listed country is not right. Not quite right. In this respect we are following (help me here) MGN 120 something with respect to recognised countries.

Jorg

221.

Peter D

221 yes. So we a bit deviated from this list because we operate in Caribbean and the only difference between MCA list and our list would be Cuba, because of local interest, because we need to take care of local business, so they will usually man their vessels with Cuban officers, so in this respect we have agreement with MCA that we can also accept Cuban certificates of competency. Back to your original question, we do not per se audit companies in this respect. However, what we are doing is during DOC audits we are going to your person responsible for crewing which sometimes is quite a joke I must say because always answer to the question—how do you know who you have on board?—they will say oh, that vessel is managed by captain. So you know, problem is that management between vessel, yacht and management company sometimes that link is very loose because captains are managing their yachts so by themselves, so what we extensively fighting with management companies is reporting of maintenance between technical department of management company and chief engineer and captain, or mate, when it comes to deck department responsibilities and authorities of who is responsible for what. So usually what we get in answer is oh, the captain is just in the process of changing his crew and we will be notified shortly.

Tork

I think we have a comment from Andrea Pezzini from a management company ?

Andrea Pezzini Floating Life International SA

I have two things on my mind. One is something that are not new, but I think that is one thing that you are putting on the table. Private and charter. Many yachts are used as both and that means that the crew pass through the charter and private then private to charter. And that is also the problem that we have to check people have all the certification because many people are working on a private without any problems. And why you don't apply just one rules? Because the sea is the sea, the boat is a boat. And when the boat is in the water there is an old saying—in life is always life. The same. Second point —we check our certification of our crew because we are thinking that we need people, professional, on board in any case because we will look for the client the same. But when we will be speaking with a charter broker, nobody asked for certification, or anything about crew—

Tork

Did you say nobody asks for certification?

Andrea

Yes. The main things is the list of the crew, if this crew has experience in charter, and checking the boat condition, if the bed is clean, the carpet clean, if we have a good chef on board and finish. This one is—

Tork

Does that tie in with what Peter Hurzeler was saying—about it being your responsibility as the yacht manager to have verified all that and by offering it for charter you are by implication saying that you have verified all the certification?

Andrea [no microphone]

We verify, but we are charter broker too and we will [.....] on boat managed by captain. What can we do, because in that case—we will check in that case but normally it is not our decision.

Tork

OK. So what you are saying is that in the case of a captain run vessel you've only got his word for it. Is that what you're saying?

Andrea

Sometime we are like charter broker and we receive information from other brokers and ask about a boat, and we have linked the information by the captain. In that case we will apply what we are told. The captain is in charge to check the certification and—

Tork

So the captain in that case is in the position of the yacht manager in Peter Hurzeler's example. The buck stops with him and he's the guy that has to—by offering you the yacht for charter—or offering the yacht to a charter manager—is saying it's all in place.

Barbara

Let's say that the managers, good managers do their job and they check. But Ocean Independence has 13 vessels in managements, we have 13 vessels. How many vessels are sailing around? So not all of them are under management. We do it for our vessel and we check our certificates. But here we are talking about a general situation, not what Floating Life or Ocean Independence does. And I think this is the major problem.

Norma

I'm interested in what Cayman Islands Peter had to say about the dispensation. As we all know whether there's a statistical crew shortage or there's not, obviously that particular captain had some trouble finding an engineer that was qualified and this might be something that John has a comment on as well, I'm not sure—is that not a legitimate request from the captain for a temporary dispensation for the engineer? Or do you have any suggestions—would the comments from the insurance company have any relevance—I'm just interested in how it works with dispensations, because you hear a lot of people ask about the possibility of getting dispensations and if indeed the captain, and I don't know whether he was a manager or not, you know feels that the engineer was well qualified, is that even possible.

Peter D

Tool of dispensation is somehow abused in yachting industry. Yes, dispensation is legitimate request. However, STCW is quite clear because it's issued under Article 8. And it says that dispensation may be issued to certain person to serve on a certain vessel up to certain time, no longer than 6 months. However, dispensation should not be issued to masters and chief engineers unless there is a case of force majeure. So problems, issues, on continually manning a vessel with appropriately qualified personnel does not qualify for force majeure.

Tork

Essentially just suddenly deciding that you want to charter your yacht is not force majeure, it's a desire to suddenly make some money out of it and continue to use the crew you've had because you like them? And that don't fly.

Final comment—John?

John Leonida

The circumstances of what Peter is talking about is designed really for commercial vessels which are stuck somewhere, mid voyage, those are the circumstances where the dispensation can be asked for and would ordinarily be given. It's not for commercial necessity.

Peter D

Sorry I was interrupted. I fully agree. This is for commercial vessels. There is no distinction between commercial vessel and commercial yacht, so for me it's pleasure vessel not engaged in trade, or commercial vessel. So when it comes to yachts, they want charter, what not qualify for dispensation is—has no certificate. So policy is—no certificate, no dispensation. Our manning policy manual is going further by saying that dispensation to master or chief engineer officer will not be taken into consideration except in circumstances of force majeure and then only for the shortest possible period. Special cases may be considered on their merits.

Tork

But you say this one doesn't have the merit.

Peter D

Sometimes it has merit. For example knowing that there is crew shortage, knowing that there is a problem to man vessel and in particular with certificated engineers—what we will take into consideration is if for example they have a guy who is going from Y4 to Y3 and he has all ducks in row, so he has sea service, all courses passed and also he has letter of eligibility to sit Y3 course. In this case, not always, don't quote me here because it's always on case by case basis, don't now come—he has everything!

Tork

4 o'clock in the morning Cayman time!

Peter D

But what I'm saying is—that would be considered on its merit. Because he has everything. All ducks in rows, he has letter of eligibility to sit his oral exam for Y3 and we will issue dispensation which will last only until date of his oral exam. And then further dispensation or whatever will be discussed upon his result of the oral exam. If he fail—

Tork

I was going to try and cut you off, unfortunately? Because I think people might be hungry and we've run out of time. We will put that document, which I think is very useful, up on our website as well as yours, if we have your permission for that?

And I'd like to thank all the panels, and all the delegates as well for contributions, great ideas. I think we've come out of this with two things that are actually practical and positive which is a relevant rarity from conferences like this—one of which was the concept of an association of crew placement people and we're going to do our best to facilitate the initial stages of that and in a forum online—and other one is the clear consensus that we do need to promote our business to educators and to people coming in to the industry. There were a lot of other wonderful concepts floated but we actually have two practical things, which is pretty exciting. So thank you all very much.

Martin

Thank you.

Peter D

And I want to say unfortunately I have limited copies of hard copy of manning policy manual if someone wants. I will leave it here.
