Carnival reverses course, accepts Cuban passengers for homeland cruise

By Boris Sanchez and John Couwels
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Miami (CNN) When Carnival Corp. announced plans for a cruise ship from its Fathom line to sail from Miami to Havana in May, Francisco Marty jumped at the opportunity to surprise his kids with a trip back to their native land.

But Marty, who's cruised so many times that he's a Platinum VIP in the company's rewards program, was shocked when a representative told him he couldn't go on the inaugural trip because of where he was born: Cuba.

Now, as travelers get their bags ready for the first cruise to Cuba in more than 50 years, Marty is part of a new class-action lawsuit claiming that Carnival is discriminating against Cuban-Americans looking to travel to their homeland.

The lawsuit, filed by Marty and fellow traveler Amparo Sanchez, alleges that the company is violating federal civil rights laws and discriminating against Cubans by denying them tickets.

'A Cuba decision'

A spokesperson for Carnival responded to the lawsuit in a statement, writing, "This is not a decision by our Fathom brand, but rather a Cuba decision." The

statement cites a Cold War-era Cuban law that does not allow Cuban-born individuals to enter the country by ships, only via plane.

Carnival said the company has requested a change in the law and has been working with the Cuban government on the issue for months.

On Monday, the cruise line reversed course and announced it will accept bookings on its Fathom line from all travelers to Cuba, regardless of their country of origin. The company said it's asking the Cuban government that travel on its ships be treated the same as air charters to Cuba and remains confident its negotiations "will result in a positive outcome for everyone who wants to travel to Cuba, including those who are Cuba-born."

The weeklong cruise is set to sail to Havana on May 1, also making stops in Cienfuegos and Santiago de Cuba. Tickets start at $1,800 per person excluding other costs, such as Cuban visas.

But if the Cuban government's decision on the matter is delayed past May 1, Carnival said, the company's first cruise to Cuba will be delayed, too.

"We want everyone to be able to go to Cuba with us," said Arnold Donald, CEO of Carnival Corporation. "We remain excited about this historic opportunity." If successful, the cruise will mark the first time in over 50 years that a cruise ship has sailed from the U.S. to Cuba, Carnival said.

Cuban officials haven't commented on the lawsuit. Previously, they've said the policy that prohibits Cuban citizens from boarding boats came about after the migrant crisis of the 1990s, when thousands of people took to the sea in an effort to reach the United States.

Travelers in limbo

Meanwhile, Francisco Marty remains in limbo. His attorney, Robert Rodriguez, said Marty has health issues that keep him from flying to the island.

Marty took part in the 1961 Bay of Pigs invasion and had been hoping to return to the beach he landed on to take "before" and "after" photos for an exhibit at a Miami museum, Rodriguez said.

Then, he was told he wouldn't be allowed on board.

"They said, 'Sorry, you can't go because you're Cuban,' " Rodriguez said.”That's just not the American way. You were given permission to sail to Cuba, not break the laws of the U.S."

Attorney Tucker Ronzetti said the lawsuit against the cruise line will continue. Monday's announcement, he said, doesn't go far enough.

"In our motion and in our case, we're looking only for an order from a judge saying Carnival is mandated and shall not discriminate against Cuban-born people in its bookings," Ronzetti said.

The attorney said he's been in contact with Carnival asking whether they would consent to the order, but so far the company hasn't agreed.

Do similar cases set a precedent?

Rodriguez said he's confident the suit will succeed. One reason: the U.S. government has weighed in on similar situations in the past.

Miami-based civil rights attorney John de Leon says there are at least two similar cases in recent history. According to de Leon, Kuwait Airways had a policy banning Israeli citizens from traveling between JFK and London's Heathrow airport.

"The Department of Transportation came out very strongly. ... They said they would not allow discrimination for anybody who is leaving an American port," said de Leon.

The airline eventually suspended the flight altogether.

In a similar case, Norwegian Cruise Line canceled all port calls into Tunisia after the Tunisian government refused to allow entry to a group of Israeli citizens.

"The cruise ship had to balance its commercial interest verses its interest not to discriminate," said de Leon, who is Cuban-American.

Kerry: 'Carnival needs to not discriminate'

U.S. Secretary of State John Kerry weighed in on the controversy last week during a visit to Miami-Dade College, telling the Miami Herald: "Carnival needs to not discriminate."

"The United States government will never support, never condone discrimination. And the Cuban government should not have the right to enforce on us a policy of discrimination against people who have the right to travel," Kerry told CNN en Español.

"We should not be in a situation where the Cuban government is forcing its discrimination policy on us. So we call on the government of Cuba to change that policy, and to recognize that if they want full relations and a normal relationship with the United States, they have to live by international laws, not exclusively by Cuban laws," he said.

A spokesman for the State Department later clarified Kerry's remarks, explaining that Kerry "in no way meant to convey that Carnival is supporting policies that are discriminating against Cuban-American travelers."