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1. ABTA

Thank you for the opportunity to contribute to this consultation which is very timely bearing in mind the developments in the travel industry over the last decade and the changes to be introduced through the Package Travel Directive 2015 (PTD 2015).

ABTA

ABTA was founded in 1950 and is the largest travel trade association in the UK, with around 1,200 members and 4,500 outlets and offices. Our Members range from small, specialist tour operators and independent travel agencies specialising in business and leisure travel, through to publicly listed companies and household names. ABTA Members deliver 90% of the package holidays sold in the UK, with Members also selling millions of independent travel arrangements. ABTA's mission is to achieve confidence at the heart of travel; confidence to businesses to trade and to invest, confidence for customers to book and confidence that the industry is building a sustainable future. ABTA works with its Members, destination governments and the tourism supply chain to embed sustainability into the heart of tourism operations worldwide.

In 2008, the two largest financial protection bodies in the UK under the 1992 Package Travel Regulations (1990 Package Travel Directive), the Association of British Travel Agents (ABTA) and the Federation of Tour Operators (FTO) merged to form ABTA Limited as it is today. FTO commenced modern holiday bonding in 1967 and ABTA followed in the 1970s, well before the 1990 Directive.

ABTA is the UK's largest 'Approved Body' (by the Department for Business – BEIS) under the Package Travel Regulations and has absorbed much of the work of the former Passenger Shipping Association (PSA) Approved Body for cruise companies and AITO Trust for the Association of Independent Tour Operators. We hold some £500 million in Bonds and operate both tour operating (organiser) and travel agent (retail) bonding schemes. We hold some £20 million in our insurance based reserve fund structure and a further £20 million in reserves, against liabilities including those relating to our financial protection scheme.

The ABTA scheme is similar to the scheme of protection operated by CAR and therefore shares many of the same challenges and opportunities. We were therefore pleased to assist the Commission's consultants, Europe Economics, with their review of the UK market provision of financial protection to consumers.

We are pleased to respond to the Commissioner's request that we contribute to the consultation in the capacity of an interested third party.

CAR Consultation Questions

1. Are there material developments in the market that have been ignored that are relevant when thinking about the effectiveness and efficiency of the current travel trade protection scheme?

There have been many changes in the distribution of travel services following the rise of internet sales and low cost carriers. The protection that sits behind these sales is often confusing and can be insufficient depending on how trips are purchased by consumers and sold by travel companies.

This situation is likely to become more pressing with the introduction of PTD 2015 as more travel agents find themselves acting as package organisers and picking up responsibility under the Directive for the services that they sell rather than relying on their capacity as agents in the supply chain.

Given the changing and developing roles of different types of travel intermediary, a financial protection scheme that is based too firmly on the historic concepts of travel agent and tour operator is unlikely to be fit for purpose. An Online Travel Agent (OTA) taking full payment at the time of booking as the 'organiser' of a package may represent a far greater risk than a traditional travel agent or tour operator operating a deposit and balance scheme of payment for the same services.

The requirement for protection under PTD 2015 to be effective for sales throughout the EU regardless of departure point or the traveller's place of residence will need to be taken account of when redesigning any protection scheme. This can bring risks in that exceed the historic scale seen in a Member State's scheme, and will bring specific challenges when dealing with the citizens of the other Member States.

The 2015 Directive removes any doubt (if the ECJ had left any in relation to its decisions on the 1990 Directive) that the Member State has a very high level of responsibility and liability for the proper implementation of the Directive. It will be very difficult, legally and politically, for any Member State to allow consumers to suffer loss as a result of a scheme that is unable to deliver the full protection required. This means that if the Member State is to remove the tax payer from risk, a robust and fully funded scheme structure is required.

Brexit is a material development that should be taken into account when considering any review of consumer financial protection. There is considerable trade between Ireland and the UK, and any reform process should be looking to ensure that the current trade between Irish travel companies and UK consumers and vice versa is protected and enhanced for the benefit of businesses and consumers alike.

2. Do you agree with the finding that the current scheme is not effective in protecting consumers?

The scheme has been largely effective in protecting consumers historically as consumers have received the protection to which they were entitled.

Whether the scheme would be capable of providing that protection in the future, and whether the Member State responsibilities under PTD 2015 could be met, must be a cause for concern under current structure and funding models.

It is clear from the published responses to the Consultation that various parties regard the cost of the failure of LowCostHolidays.com to be a good example of the sort of issue that must be

addressed. The fund has been severely depleted by one event and that was, in part, the result of the level of security held in comparison to the level of 'risk' business conducted by that OTA. The company in question exited from the ABTA scheme of financial protection some time before its failure, as a result of failure to agree the level of bonding required to remain in Membership. The company left the ATOL scheme and migrated to a company established in the Spanish Balearic Islands, where it continued to trade in the same markets and through the same website as before.

We return to our theme that a much more sophisticated structure of primary security (bond calculation) that reflects the exposure of the scheme to the trader is required. Sophistication need not mean complexity or disproportionate additional cost. Traders should carry the fair costs that relate to the risk and exposure they represent to the scheme.

3. Do you agree with the finding that the scope to reduce the costs of the current scheme while maintaining the current level of consumer protection is limited?

We do not feel fully qualified to comment on this in detail, but this would appear to be the case at face value.

4. Do you agree that to be effective, the scheme needs to be designed with sufficient contingency to be able to meet all claims in full in the event that there are two collapses in a single year that give rise to the same level of claims as the two largest collapses in the history of the scheme? If not, what criteria would you propose?

The Member State responsibilities under PTD 2015 lead one to conclude that there needs to be sufficient contingency within any scheme of protection to meet in full all reasonably foreseeable costs arising as a result of failures, regardless of the number of failures in any particular year.

The key issue here is to ensure the appropriate level of primary security (bonding, insurance, etc.) in each individual case and to then have a reserve fund structure that is able to meet the residual risk. In any scheme structure it is possible to imagine scenarios in which multiple failures follow some sort of global catastrophe. Such risks are probably best (or only dealt with) through catastrophe insurance arrangements.

The role of the fund structure in 'normal business' is to have the capacity to manage the normal economic cycle and the geopolitical crises that interact with it over a period of 10-20 years. In that time frame a major geopolitical event; a war; an oil crisis of some sort; the normal economic cycle and the travel and aviation industry's propensity to overcapacity and correction will normally play out once or twice.

When considering the scenario of two major failures, the focus should first and foremost be on understanding the individual risk profiles and how to cover that exposure through primary security. It should not be the role of the reserve fund to act as a very large goal keeper in order to compensate for a weak primary defence. In this context that primary defence is both the primary security and monitoring of the businesses through the licensing process.

So, strong contingency yes, but only in proportion to the exposure.

5. Are there other reforms that you think should have been considered? How would these reforms ensure that all consumers protected enjoy full financial protection?

We would support the ITAA observation that the reform of the scheme should not be considered without consideration of the new 2015 Directive, that must be enacted in to the law of each Member State by 1 January 2018 and be effective from 1 July 2018.

6. Which of the reforms do you think the Commission should pursue, if we conclude that the current scheme needs changing? Why?

We would respectfully suggest that the current reform options, structured around standard bonding rates for travel agents and tour operators be reconsidered.

The legal status and capacity of a travel company is important, but the defining issue in relation to exposure of the scheme is relates to the business model and terms of trade.

A 'travel agent' acting as an 'organiser' (under PTD) and taking full balance payment at the time of booking may represent a greater exposure to the scheme than a traditional tour operator.

Equally, a traditional travel agent trading on normal terms with tour operators who themselves are the appropriately bonded 'organiser' entity designated by the directive represents a significantly smaller risk to the scheme.

It is not necessary, or proportionate, to increase the standard bonding of all travel agents to cater for the outlier case of an OTA operating an organiser role and responsibility on non-agency payment terms.

We would advocate against standard bonding rates (we are not against minimum rates). The rates of bonding should relate to the risk represented to the scheme of financial protection.

Businesses should, within the law, be free to develop and follow their chosen business model in a competitive environment. Equally, they should then carry the fair and proportionate costs that flow from those commercial decisions.

Flat rates of bonding and contribution will, on average, ultimately penalise more conservative businesses and over time encourage payment terms that increase risk to the scheme of protection if there are no cost consequences in doing so.

The same principles apply to reserve fund funding, although with the right level of primary security, the use of a simpler levy to fund reserves is less distorting.

Conclusion

We hope that these responses are of assistance.

We would be happy to provide any clarification that would be of assistance.

Simon Bunce
Director of Legal Affairs
ABTA

Commission for Aviation Regulation

John de Vial
Director of Financial Protection, ABTA
Director, ANTA Insurance PCC Limited

2. Best4Travel

First let me thank you for giving us the opportunity to finally have our voice heard as an industry to what has seen a total deregulation of our business via the numerous different channels that our open to the public to book their holidays and travel arrangements through . We believe that choice is good and keeps business progressive and keen but within our business in Ireland we need to be doing this on a level playing field which currently it is not and the proposal that have been brought forward in our opinion just do address the whole problem of bonding and protection of us the genuine travel businesses and the traveling customers who only realise the issues when something goes wrong .

Best4travel employs over 40 people nationwide with the majority of these being developed in the last 6 years through the depths of the recession covering 10 shops , Our current Bond to trade this year stands at €14 million but as a growing business having to compete with huge companies with either no Bond but offering the same products (Aerlingus and Ryan Air for example via their websites) or the vulchure's that our outside the country yet trading in it online in it offering ficticious prices and no credibility to the trade other than to con the public who only see a cheap price and will only shout when they realize they have been conned when their holiday has not been paid for upon arrival at hotels etc eg (Low Cost Holidays , On Holiday Group recently) not to mention the numerous bedbanks that have gone bust over the last 6 years (Chase Travel , 1800 hotels , On Holiday group , Transhotels , Hotel connect , Bluebook online , Welcome beds USA , selfcatering.ie) all trading in Ireland yet no protection necessary , this is wrong and unfair .

With the changes coming by the EU for 2019 in travel , THE COMMISSION needs to step back first and take a full look at the picture and work on a system which is fair and fully inclusive , at present from what the statistics show only 18 percent of travel is booked via the high street agency like ourselves so that would mean 82% are unprotected and exposed so the system at present and proposed just does not work , We at Best4travel believe the government need to be committed to introducing a broader protection plan for the travelling public as the legislation in place which dates back to 1982 cannot be seen as a credible paper any longer and must be brought into the 21st century with a system that protects all and also generates long term funds that support jobs and growth within the business and a Commission to support it .

We need the general public to see the value of booking via a bonded agency who is licensed for their protection from the start of the transaction not when it goes wrong in resorts etc and a introduction of a levy to use as the protection against failures and it needs to be shared amongst all not just the few with the levy based on the booking type . Political will needs to be involved as at stake long term is our jobs .

We noted at the meeting that the Consultation documents failed to mention any sources of information and it offered solutions which we just could not trade under , has these people ever worked in the Irish travel trade ? who proposed the solutions . We at Best4travel are available to discuss and help with the process and hope a solution that is proper for all can be found and implemented for the protection of us all .

Jeff Collins, Managing Director

Commission for Aviation Regulation

3. Black Pool Travel

Thank you for meeting with the Cork Travel Agents on October 8th.

I am the owner of a small Travel Agency (Blackpool Travel) situated on the north side of the city, giving employment to six people. We survived the recession with cutbacks, short time for staff etc. I was a Budget franchisee. Our Agency was the main Agency in the Country, so obviously, my company took a big hit when they were collapsed. As you know we are still out of pocket. The unfortunate circumstances surrounding Budget, is that they should never have been put in the position to cease trading in the first place.

The above paragraph is to give you a flavour of where I am coming from on the low cost beds debacle. We did not support Lowcost beds, because it was obvious from the beginning that their figures and prices were off the wall. When we compared their prices with other bedbanks, we know that their rates were unsustainable. I could never understand how they got a licence in the first place. I was stunned and shocked, to put it mildly to hear at the meeting that CAR had no idea that there were problems with Lowcost Beds. The stones on the road knew the situation. I was very disappointed and quite shocked to hear that the call on the TFP was 3.5 m. This was disgraceful. However there is nothing that we can say or do now that will rectify the situation.

Reform at many levels is needed. The Consumer of course has to be protected. However this has to be done in a fair and transparent way across the board. As you stated there is just 15% of the traveling public booking with a Travel Agent. The scope should be widened to include all those who book direct on line, Tour Operators, Bedbanks, Transport Companies.

On reading the various options put forward by the Commission I note that Option A, C, and D are not options at all. Any legislative changes will take years to implement, unless a S.I could be implemented at short notice. However I doubt very much if this will happen. There really would not be any political will to make such changes.

While Option B would obviously be a good option for Travel agents, I don't think the Tour Ops would be amenable to such an option.

At the meeting in Cork a suggestion was made that every passenger leaving the jurisdiction would pay a levy at the Airports. This would in fact cover everybody, those who booked on line or with Travel Agents. It would be a short term measure until the fund is back in sufficient levels to handle a crisis.

Thank you for taking the time to read this response,

Yours sincerely,

Maria Dilworth
Managing Director,
Blackpool Travel

4. **Bowe Travel**

Thank you for taking the time in recent weeks to explain and outline the various challenges ahead with the TPF fund after 36 years there is urgent need for reform. The single biggest failing with the TPF fund and the commission has been the failure to educate or inform the general public of the major benefits and importance of the regulatory authority for the traveling public. The general public do not recognize the importance or the significance of a TA number or TO number and the fact that the presence of the number means whom you are booking with is fully licensed and bonded.

The failure of the regulatory authorities to regulate Lowcostholidays is well documented and I hope lessons will be learned going forward but this should also be used to explain to the general public that they only received their refunds because of Lowcost receiving a license from the Commission of Aviation - how or why they did get a license is an entirely different matter and I know there are further reports being concluded at present.

There is a need to increase the funds to the TPF and there is very real temptation to levy passengers when they are booking through a licensed Travel Agent or Tour Operator - This is in affect penalizing the minority as this industry only accounts for approximately 15-20% of the traveling public. This levy would only be of benefit if the public can be educated as to the full benefits of ensuring the company they are booking with is fully licensed and fully compliant with Irish law. Perhaps an opt out option could also be offered to passengers who would prefer to avoid the levy no matter how small.

I do feel to date of the various options that have been suggested and with the pending implementation of the new Package Travel Directive in 2018 it might be prudent to perhaps look at a variation of the Norwegian option where perhaps some form of an insurance policy might underwrite any potential shortfall in the TPF funds if a collapse was to happen again.

I am not in favor of increasing agents bonds as I fear this could lead to jobs being lost in our sector and I feel it would put undue pressure on the small SME type agent who for the most part have not called on the TPF fund in over 36years. Again the minority being penalized.

I do understand the challenges ahead and I am grateful for the opportunity to be part of the process. Should you require any clarification please do not hesitate to contact me?

Yours sincerely,

Michael Bowe
Bowe Travel

5. Cassidy Travel

Thank you and Adrian for your presentation at the Carlton Airport Hotel, I am sure all who attended found it to be most informative. We held off sending our submission to allow for some feedback from the meeting. Cassidy Travel has traded for 32 years and has seen all kinds of changes in the travel industry over that time. We believe that it is well past the time for changes to the bonding system and that your options listed in the consultation document are no longer sufficient to cover the bulk of the public's current booking patterns, effectively the net needs to widen to cover travellers more comprehensively. The mood of the meeting was more or less unanimous in that a change is required to the current bonding system with the preferred choice for the introduction of a departure travel levy to cover travellers who use a variety of booking channels. Travellers who book with bed banks or low cost airlines are generally unaware that they are not protected by a bond or that these companies are not required to hold a CAR issued travel licence or have a bond.

Given the inevitable changes that will be introduced by the EU for 2019, CAR should purchase an insurance bond in the interim to protect it for any shortcomings that could occur with the current Travellers Protection Fund. This would allow breathing space for a better understanding of the new regulations the EU intends to introduce which in turn would allow CAR to initiate a fully inclusive bonding system in a fair and more equitable manner. It is very interesting to note that at the recent ABTA conference the members felt that their ATOL travel levy was no longer sufficient given the public's booking trends using alternative options of booking packages through airlines etc. With these significant changes it seems futile to try and protect 15% of travellers who book through Irish travel agents/tour operators. We believe the government should be committed to introducing a broader protection plan for the traveling public given they now book through a broad variety of travel providers. Aer Lingus Holidays and Ryanair Holidays are probably selling multiples of packages online to what the Irish travel agents/tour operators are selling with no requirement for a bond or travel agent licence, surely these traveller's deserve to have proper protection in place.

CAR should be more concerned with the protection of travellers from the collapse of airlines/companies such as Monarch Airlines and Low Cost Holidays as their models are becoming the norm for failure and not your high street travel agents. The current legislation dates back to 1982, long before flights and holidays were booked on the World Wide Web so clearly the public need to be protected by a more robust system than currently exists. The value of CAR issued travel agent/tour operator licences should be a gold standard where the public book in the full knowledge that they are well protected when booking through these licensed/regulated companies. In our view the introduction of a travel levy would allow CAR to bolster its staff numbers and ensure licensees are well monitored with airlines/bedbanks required to be licensed if selling packages. The Government could act as a guarantor to the TPF if claims were excessive with the balance of Levy funds becoming a revenue stream for their coffers. Clearly there needs to be a political will to introduce these changes which would be fully supported by the travel trade. We note that the Consultation document fails to mention its sources of information gathering and we find it highly irregular that it suggests a solution, particularly without looking at the favoured alternatives offered by the travel trade, it almost seems like a "fait accompli" Please feel free to contact us if you have any queries regarding the above.

Kind regards, John Cassidy

6. Cavan Travel

One of the first consultation questions asked by the Commission is "2.5. are there material developments in the market that have been ignored that are relevant when thinking about the effectiveness and efficiency of the current travel trade scheme"

The fact that CAR is well aware of such developments, have ignored them in the past and in the document, indicates that it will continue to ignore them going forward, renders the Consultation process as really a futile and wasteful exercise.

It appears that CAR does not see the Travel Trade as being any more than 250 Travel Agents and Tour Operators with a T/Over of 1.2billion euro and that the answer to the current shortfall is to increase the BOND and replenish the TPF from that very narrow pool only.

It simply is not good enough that " the fish in the barrel" are expected to carry the cost of this deficiency by simply doubling the Bond to 8% and 10% of Turnover when our activity is reputedly only 15% of the total travel trade.

A further distortion of an already unlevel playing field by a state organisation such as CAR should not be entertained and I personally have serious objections to the recommended proposals in the consultation document be they Option A B C D E.

On behalf of Cavan/Virginia Travel I am comfortable with our current level of Bond which accurately reflects our Turnover (in fact overbonded I would expect).

CAR must i) address and identify all the players in the "Travel Trade" and reassess the bonding requirements accordingly or 11) lessen/lower the cover available for consumer protection in situations of collapse/ failure of travel providers.

Michael Geraghty

7. Click and Go

As a board member of the ITAA, I fully endorse the submission made by the ITAA. My suggestions are around minimizing the risk of further failures as against imposing levies to replenish the TPF (Travelers Protection Fund)

- All bonded travel companies with a turnover of more than €10m for the current previous licence period should be required to submit an audited statement/ abbreviated management accounts that allow CAR to make an informed decision on the financial viability of the business.
- The Travel Trade should do all it can to assist with market intelligence that would help CAR pre-empt potential collapses.
- I am opposed to levies on the grounds that it increases the costs for consumers to book with licenced and bonded travel companies and further encourages them to DIY. If we pass on this additional charge to our clients, we become less competitive and risk losing even more market share to un-bonded sellers of travel services.
- I am in favour of using the €1.8m in the fund to purchase additional insurance that would provide a payment to the TPF in the event of a failure calling on more than companies bond.

Trading Environment

- The licensed travel trade are the soft touch for the TPF replenishment.
- The licensed travel trade possibly make up only 15 to 20% of the total travel spend from Ireland and that group is being asked to replenish the TPF.
- Given the proposed changes and discriminative nature of the CAR proposals mean that some companies may consider to move domicile to other EU locations that have much more relaxed bonding arrangements.
- There are varying levels of bonding requirements across the EU and the fact that this discriminates against Irish based licensed and bonded companies.
- World2Meet / Ryanair holidays not being licensed or bonded in Ireland on the basis of the application of the Services Directive.

What is clear is the following

- CAR want a solution that doesn't require legislative change and can be actioned by an SI (statutory instrument).
- This consultation paper sits outside the forthcoming changes to Package Travel Directive.
- To tackle the airlines would require primary legislation and there is no appetite to address that.
- Nor is there any appetite the "bedbanks" accommodation only sellers.
- There is no interest in addressing the fact the current licensing arrangement only cover 15 to 10% of the total numbers travelling on holidays because the bonding arrangements have not kept pace with the way people now book holidays.
- The context from CAR is that we are where we are and we need to address the shortfall in the PTF.

Paul Hackett
CEO

8. Clonmel Travel

I merely wish to say that we would welcome a system whereby Turnover from the previous Audited accounts should be accepted for Bonding. It is almost impossible to accurately calculate a Turnover figure on a projected basis and one cannot fully anticipate what a new year will bring. If not, may I suggest that it be based on actual Turnover on previous set of accounts plus a reasonable % increase?

Further to your consultation meeting in Cork on the 9th instant, Clonmel Travel Ltd., having discussed the matter, wish to respond as follows:-

- (1) We appreciate that Legislation is required to implement a general Departure Tax per Passenger, however, it is the obvious solution as it would result in an immediate effect on the Travellers' Protection Fund and indeed have a beneficial impact into the future.
- (2) From a Travel Agent's view point, we cannot propose that a higher Bonding requirement should be implemented as it would be penal on the small offices.
- (3) Bonding has always been based on projected Turnover figures, projection of figures is very difficult as one cannot anticipate future figures, however, we feel that perhaps more emphasis should be attached to a Company's Retained Profit/Bank Position/Cash Flow. Retained Profit within a Company determines the addressed prudence within that Company and incorporates future planning. Turnover cannot determine profitability.

Regards

Jennifer Boland, Clonmel Travel Ltd.

9. Club Travel

REPLY TO 04

Claims in a single year exceeding the available funds should not be a reason to adopt a worst case scenario in terms of planning for this. The Commission has the ability to impose a levy in a following period to cover a shortfall or a shortfall could be covered by bank borrowing or a Government Loan to be repaid out of future levies.

REPLY TO 05

In your assessment of Bonding Levels, you have assumed that the existing Financial Fitness is continued. If you wish to reduce failures then Financial Criteria for both new & existing Entrants need to be substantially increased i.e. treat the symptoms not the disease. In addition, as part of the assessment agents should be graded into Low/ Medium/ High Risk with appropriate Bonding Level for each category.

I.A.T.A (the International Air Transport Association) who also have an annual Financial Assessment, categorise agents on their Balance Sheets & apply different Bonding & Personal Guarantees based on this. I.A.T.A is a good model for Financial Criteria with different rules for different categories.

In your assessment of options D & E you made an assumption that the remaining Turnover after the excluded Turnover was riskier. This is an erroneous assumption. Based on this erroneous assumption you then suggest that 8% & 20% are the appropriate Bonding Levels for Travel Agents & Tour Operators for the remaining Turnover.

You should be assessing risk & Bonding levels solely on the Balance Sheet of the company not how much Turnover is not paid out prior to travel. There is no logical reason to propose an increase in Bonding Levels solely on this criteria, the Acid Test is the Balance Sheet. In addition it could be argued that because money is paid prior to travel that the likelihood of a collapse of a disproportionate scale compared to past is reduced.

MONTHLY/ QUARTERLY - T/O CERTIFICATION

The mechanics & enforceability of providing a Certificate to confirm the client's holiday is covered seems impractical to administer. To establish if a Licensee is overtrading, the easiest and most effective solution is a monthly Auditors Certificate of Turnover.

To ensure that an Agent Projection is been adhered to it would be a painless exercise to request a Quarterly /Monthly Auditors Certificate solely in relation to Turnover which is less onerous than the requirement for quarterly A/Cs.

I favour Option D – I am doubtful about the logic of the change from 4% to 8% for remaining turnover In addition to our preferred Option D the following features are appropriate

1) Assessment as High/Medium/Low Risk based primarily on the Balance Sheet, additional factors that could be weighted to improve the assessment are:

- a) Length in business
- b) Profitability in past 2/3 years

In the event the Agent is deemed Low Risk the Bond amount should be ----4% - Medium Risk----- 6% & High Risk ----8%

In addition attached find the IATA Financial Criteria Doc which may give you some ideas
Also attached is the IATA Global Default Insurance Doc provided by Marsh & Aon to Euler Hermes

Regards
Liam Lonergan
Managing Director

ATTACHEMENTS



June 19th, 2017

Dear Agent,

Please be advised that effective June 19th, Global Default Insurance (GDI), a new and optional Financial Security type under Resolution 850p, will become available in the United Kingdom and Ireland.

Global Default Insurance (GDI) has been developed and introduced as part of the NewGen ISS program with the aim of offering Agents greater flexibility and choice when providing Financial Security. (Note, all current Financial Security types under Resolution 850p will continue to be available)

GDI consists of a global default insurance policy brokered jointly by Marsh and Aon to Euler Hermes, a global credit insurance provider and subsidiary of the Allianz Group. Any Agent may, on a voluntary basis, seek coverage under GDI for the corresponding amount of Financial Security required by IATA. Please refer to the attached FAQ for additional information.

GDI will be supported locally in the UK and Ireland by Aon, and globally by Aon and Marsh. For assistance, please contact Aon via the following email address: IATA.GDI@aon.com

If you operate in more than one country, please contact IATA.GDI@marsh.com and IATA.GDI@aon.com for further information and assistance from both GDI brokers.

Any Agent interested in obtaining further details on GDI, should contact the GDI brokers directly or visit Euler Hermes' dedicated Portal at: www.global-default-insurance.com/a-gdi

Sincerely,

IATA Agency Management

Global Default Insurance “GDI” FAQ

As part of the NewGen ISS program, a Global Default Insurance (GDI) solution has been developed and introduced as a new and optional Financial Security type for IATA Accredited Agents under Resolution 850p.

Below is an overview of the main features of GDI.

1. What is Global Default Insurance?

GDI is a global default insurance policy. Individual Agents may, on a voluntary basis, choose to be insured under GDI to satisfy their Financial Security requirements with IATA.

2 Who is the insurance provider?

Euler Hermes, part of the Allianz Group, is the global provider.

3 How does it work?

An Agent interested in GDI will apply to Euler Hermes via its online [Portal](#) for a quote to be insured under the GDI policy for an amount corresponding to the amount of Financial Security to be provided to IATA.

Euler Hermes will assess the Agent’s request, then advise if the Agent is eligible for GDI and if so, quote the applicable price of coverage.

If the Agent accepts the GDI quote, Euler Hermes will confirm this to IATA and the Agent will be notified accordingly by the GDI brokers.

4. What must the Agent provide to obtain GDI?

The information required by Euler Hermes will be indicated and collected through their online portal. Important note, GDI does not require any collateral to be provided by the Agent.

5. Will GDI replace other Financial Security types?

No, all other Financial Security types acceptable under Resolution 850p remain available to Agents.

6. What are the fees associated with GDI?

The cost of coverage for an Agent under GDI is determined by Euler Hermes, not IATA, and will be quoted directly to the Agent.

7. How will the fees be collected?

Once an Agent accepts the GDI quote and confirms the same to Euler Hermes, the applicable GDI fee will be communicated by Euler Hermes to IATA. IATA will invoice and collect the amount due from the Agent. Payment of the GDI fee is required for an Agent to be covered under GDI.

Going forward, if the Agent wishes to maintain GDI as its Financial Security type, then the GDI renewal fee will be collected with the Annual Agency Fees.

8. What is the duration of cover under GDI?

The duration of cover is for 12 months, unless otherwise specified by Euler Hermes.

9. Are all Agents eligible for GDI?

Euler Hermes assesses the eligibility of each Agent for the amount of cover requested.

10. How does an Agent obtain a quote? Is there a cost to request this?

A quote can be requested via Euler Hermes' dedicated online portal at no cost and with no commitment: www.global-default-insurance.com/a-gdi/

11. Can an Agent's limit be increased?

An Agent can apply to Euler Hermes for a limit increase. In most cases, Euler Hermes will assess the request within five business days.

12. Can an Agent cancel or decrease its coverage under GDI?

Yes. Note, in the event that an Agent cancels its coverage under GDI mid-term, the Agent may be eligible for a partial refund. Please contact IATA's GDI brokers for additional information.

13. Is GDI available in all BSPs?

GDI will launch in a first set of pilot markets from May 2017. Following the pilot, GDI will progressively be rolled out to other BSPs. Full implementation is expected by end of 2018. To find out whether GDI is available in your market, please contact IATA via the Customer Portal.

14. Can an Agent replace its existing Financial Security with GDI?

Yes, however any Financial Security on hand with IATA can only be returned after IATA receives confirmation of the Agent's cover under GDI from Euler Hermes, and the applicable GDI fee is paid.



NewGen ISS Global Default Insurance

Key Principles:

- A standardized global default insurance policy that will be brokered to top credit insurance companies and made available for travel agents to be listed under on a **voluntary** basis.
- A Financial Security type **additional** to those currently acceptable under Resolution 850p:
 - ❖ IATA will establish a framework for brokers and insurers to introduce this additional financial security letting the market play
 - ❖ One single policy for which any insurance company may bid
 - ❖ Insurance will be provided by global credit insurers, not IATA
 - ❖ IATA will not participate in the collection of premiums
 - ❖ Global Insurance will **not** replace DIPs



Global Default Insurance Benefits



- Increases certainty of outcome in event of a travel agent default or insolvency
- Improves claims settlements, thus reducing unrecovered defaults
- Supports sales growth



Global Default Insurance Benefits



- Lower cost than other acceptable Financial Security types
- Allows Agents to obtain a higher cover in a short time frame, and to increase their Remittance Holding Capacity as applicable
- Supports growth in ticket sales

NewGen ISS

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NewGen ISS
Credit Status & Conditions

Assessment		Credit Status	Credit Conditions
Fin. Review	Credit History		
PASS	PASS	A	<input checked="" type="checkbox"/> Cash Facility <input type="checkbox"/> Financial Security only if required in LFC for Standard Agents <input checked="" type="checkbox"/> Standard remittance frequency of BSP
PASS	FAIL	B	<input checked="" type="checkbox"/> Cash Facility <input checked="" type="checkbox"/> Financial Security <input checked="" type="checkbox"/> Standard remittance frequency of BSP
FAIL	PASS	C	<input checked="" type="checkbox"/> Cash Facility <input checked="" type="checkbox"/> Financial Security <input checked="" type="checkbox"/> Most frequent remittance frequency in the BSP*

* Only applicable for countries with multiple remittance frequencies.



NewGen ISS
Credit History Assessment

➤ Credit Events will impact the Agent's Credit History based on the number of occurrences:

	Credit Event	Downgrade at
24 months	Agent has been accredited with a cash facility for less than two years (new applicant)	1 st occurrence
	Major change of ownership or legal status	
	Agent reinstated following a previous payment-related default	
12 months	Unreported change of ownership or legal status	2 nd occurrence
	Unreported change of legal name	
	Failure to provide financial security by deadline	
	Failure to provide acceptable financial statements and/or documents	
	Late or Short Payment	
	Payment in Wrong Currency	Adjusted for Remittance frequency

Remittance Frequency	Remittances per year	Downgrade at
Monthly	12	1 st occurrence
Fortnightly	24	2 nd occurrence
Every 10 days	37	
4 times a month	48	3 rd occurrence
Weekly	52	
Every 5 days	73	
Every 3 days	122	5 th occurrence



IRELAND

(Effective 1 April 2017 – PAC/39)

1. GENERAL RULE

The financial standing of IATA New Applicants and of IATA Accredited Agents is evaluated by IATA.

It is important that only Agents that demonstrate their ability to settle their liabilities will be accepted and the financial criteria have been set with the objective of ensuring that only financially sound applicants are accredited.

The Settlement dates in Ireland are:

- The 1st and 15th of the month following the month of sales, for Agents settling their BSP liabilities twice per calendar month
- 8 days after each reporting period for Agents settling their BSP liabilities four times per calendar month. The reporting periods are: 1st-7th, 8-15th, 16-23rd and 24th to the end of the calendar month.

2. CRITERIA FOR THE EVALUATION OF AGENTS' ACCOUNTS

A financial review is conducted each year by IATA. The review is based on the examination of the full set of the most recent audited annual accounts and is based on the following key financial criteria:

- (a) Equity/Capital Account**
- (b) Liquidity**
- (c) Profitability**

(a) Equity (for limited companies) or Capital account (for partnerships & sole traders)

This is based on the projected annual turnover of the Agent for airlines sales including revenue to non-IATA airlines participating in the BSP and less substantiated credit card sales.

The levels of equity required are shown below and must be met without exception. The total equity must not fall below the levels stated hereunder. Equity for this purpose is capital paid up, reserves, and profit and/or loss carried forward.

There are two levels set – the normal minimum for companies that have traded for less than 2 years as an Accredited Agent, and the traded minimum for companies that are able to submit 2 consecutive years' accounts.

	Less than 2 years trading	2 years' Accounts
BSP Cash Sales	Normal Minimum (EUR)	Traded Minimum (EUR)
1 million	40,000	40,000
2 million	50,000	40,000
3 million	60,000	40,000
4 million	80,000	40,000
5 million	100,000	50,000
6 million	120,000	60,000
7 million	140,000	70,000
8 million	160,000	80,000
9 million	180,000	90,000
10 million and over	200,000	100,000

(b) Liquidity

The accounts must show a positive liquidity ratio i.e. current assets must exceed current liabilities at the end of an accounting period.

(c) Profitability

Agents' accounts must show a profit before tax in at least one of the last two accounting periods. This requirement will be applicable to annual accounts falling due for review as from 01 April 2017 onwards.

If an Agent Accounts do not show a profit in at least one of the last two accounting periods, the Agent is required to meet one of the following:

c1) If an Agent's Net Current Assets meet or exceed 8% of cash sales of their annual BSP turnover (net to be paid), the Agent can remit twice monthly.

c2) If an Agent does not meet c1) above and their Net Current Assets meet or exceed 4% of cash sales of their annual BSP turnover (net to be paid), the Agent must remit on a weekly basis, unless the Agent provides a Financial Security (bank guarantee/ insurance bond) of 8% of yearly BSP cash sales turnover (net to be paid) to continue to remit twice monthly.

c3) If an Agent does not meet c1) or c2) above, the Agent must remit weekly and must provide a Financial Security (bank guarantee/ insurance bond) of 4% of the yearly BSP Cash Sales turnover (net to be paid).

For the purpose of calculating the liquidity ratios, the BSP cash sales turnover (net to be paid) used will be for the same 12 month period as the financial year under assessment.

For the purpose of the liquidity tests above, the Current Assets will be adjusted to include the value of freehold properties provided that audited accounts are submitted for the annual review and:

- The value of the total charges and indebtedness secured on the property is disclosed by the Agent in the audited accounts.
- The value of the property must be stated in the audited accounts and must be certified by a qualified and independent valuer, i.e. a professional auctioneer or real estate agent.
- The valuation of the property must not be older than three years with the date of the valuation stated in the audited accounts. For newly accredited Agents or when an Agent presents audited accounts for the first time, the valuation must not be older than 3 months.

3. ANNUAL FINANCIAL REVIEWS

New Applicants

New Applicants must submit with their application a full set of audited accounts for their company for the most recent financial year and a copy of their government license. New Applicants for a Head Office IATA License and for Branches of Head Office Licenses based overseas will be required to put in place a Financial Security (insurance bond or bank guarantee) and settle their BSP liabilities on a weekly basis, for a minimum period of 2 years – see "Financial Security (Bank guarantee/ Insurance bond) requirements" below.

These conditions will stay in place until two annual reviews of company accounts have taken place and if found satisfactory the Agent will follow the requirements applicable, in accordance with the Local Financial Criteria.

Newly formed companies that have traded for less than 12 months at the time of application may submit an opening balance sheet, prepared by their statutory auditor.

Accredited Agents - Annual Financial Reviews

Accredited Agents must submit a full set of audited accounts within 4 months of the end of their financial year. Sole Traders and Partnerships may submit a full set of Certified Accounts.

Exemption from Audit

Notwithstanding the provisions above, sole traders, partnerships and Irish registered limited companies, that meet the conditions for exemption from audit as a small company as defined by the Irish Company Law, may submit certified accounts for financial review, provided that (i) the certification is issued by an independent Reporting Accountant and (ii) the Agent settles its BSP liabilities four times monthly, according to the published BSP Reporting Calendar.

Reporting Accountant is defined on Note 1 below.

4. FINANCIAL SECURITY

For New Applicants

A Financial Security (bank guarantee/ insurance bond) will be required for the first 2 years of trading as an IATA accredited Agent.

For accredited IATA Agents a Financial Security (bank guarantee / insurance bond) will be required if their annual accounts show that:

- (a) They do not meet either of the requirements in a, b or c above
- (b) The Agent undergoes a significant change of ownership (see below).

The Financial Security levels will be as follows:

Calculation of Financial Security requirement for New Applicants or Accredited Agents

Twice-monthly Payment	Financial Security will be at a level of 8% of BSP Cash Sales Turnover (net to be paid)*
Weekly Payment	Financial Security will be at the level of 4% of annual BSP Cash Sales Turnover (net to be paid)*

*Or projected annual BSP Cash Turnover for new applicants.

For the purpose of calculating the level of Financial Security required the BSP cash sales turnover (net to be paid) is calculated using the sales figures for the most recent 12 month period available (being 12 full calendar months) at the time of the assessment.

The Financial Security levels are calculated to the nearest multiple of EUR500 and are subject to a minimum of EUR40,000 for New Applicants and of EUR20,000 for Travel Agents trading for 2 or more years as an accredited IATA Agent.

A Financial Security may be arranged through a bank registered in the Republic of Ireland or through an Insurance Company approved by IATA (a list will be provided upon request).

OTHER

Effect of changes of ownership on Financial Security requirements

A Financial Security (bank guarantee/ insurance bond) will also be required if your Agency undergoes a complete or significant change of ownership after approval.

This is defined as a total acquisition, or a transfer exceeding 49% of the paid-up share capital, representing a change in control. Cumulative changes will be taken into account. The Financial Security will continue (and may be adjusted in line with turnover) until at least three years' accounts under the new ownership have been submitted and assessed.

Notwithstanding the above and for the purposes of this section only, the credit rating of an Agent obtained from a Credit Information company appointed by IATA, may be taken into account to form a complete evaluation of the financial status and creditworthiness of an Agent. Provided that the credit rating of an Agent is at a level of "good credit worthiness" (or the equivalent) an Agent will not be required to provide a Financial Security.

The Credit Rating will be monitored by IATA for the full period of 3 yearly financial reviews under the new ownership and if it falls below "good credit worthiness" a Financial Security will be required for the remaining period of the 3 years.

License issued by the Commission for Aviation Regulation (CAR)

Required

Note 1 - Reporting Accountant

The Reporting Accountant shall be either a statutory auditor, which in Ireland means a person eligible for appointment as a statutory auditor as set out in Part 42 Statutory Auditors of the Companies Act 2006 or an independent qualified accountant holding a current practising certificate with a recognised accountancy body. We list below the accepted recognised accountancy bodies:

- Institute of Chartered Accountants of England & Wales
 - Institute of Chartered Accountants of Scotland
 - Institute of Chartered Accountants of Ireland
 - Association Chartered Certified Accountants
 - Association of Authorised Public Accountants
 - Chartered Institute of Management Accountants
 - Association of International Accountants
 - Institute of Chartered Secretaries and Administrators
 - Institute of Financial Accountants
 - Association of Certified Public Accountants in Ireland
 - Institute of Chartered Accountants Ireland
-

10. Dawson Travel

With regards to our written response to the consultation, we are of the same view as our association (ITAA) that every passenger leaving Ireland should have a small levy applied so that everyone is covered in event of a supplier failure.

Many thanks and kind regards,

Paula Coughlan
Dawson travel

11. Douglas Travel

Having attended the Cork meeting on October 9th I was more than surprised to learn that the collapse of Low Cost Holidays came as a surprise to the commission. Even if one absolutely had no knowledge about travel and just a little about marketing it was rather apparent that Low Cost Holidays advertising campaign was enormous, so one could only presume that their level of business would have to match this.

Having operated a Budget Travel franchise I have first- hand experience of the financial devastation caused by the collapse of a Tour Operator. I now find my company being asked to pay yet again for the mistakes of others.

In my opinion the only fair way of rebuilding this lost bond money is to put a temporary levy on every passenger departing from our country. It seems totally unjust and unfair to expect that the Travel Industry who only book 15% of overall passengers to pay the cost while online operators and airlines pay nothing.

Thank you for taking the time to read the above.

Yours sincerely

Geraldine Dinan
Managing Director

12. Globe Travel

Thanks for taking my call today regarding the Travel Trade Consumer protections Measures

As I mentioned to you it would be concerning to see the agents bond increase and realistically how much impact would this measure have on the Fund if need to draw down on

I personally believe that a Consumer fund of appx 2-3 Euro should be included per person and 50% of that cost for children however how the mechanism of the redistribution to the regulator would concern me and that a true transparent declaration be made by Agents and Tour operators . The administration of this will be very time consuming for all concerned. I do Believe there should also be a threshold on the fund and if need be re-introduced for a period of time.

I feel this will be ok with the consumers as another safety net but not the media

I am sorry I will not be able to attend next week as I will away for work

Thanks again for support

Kind regards

Sandra Finnegan,
Director of Globe Travel

13. Grenham Travel

Firstly, we extend our thanks to CAR for coming to meet with agents at different locations in the country. We applaud this action and look forward to further communication to develop the way forward in a fair and equitable manner to finance the Travellers Protection Fund.

Response to Meeting with CAR

We would like to preface the following suggestions with our overall view that small/medium sized agents who have proved their efficiency with their account systems and projections and have been authentic and above board over the years; should not be subject to the same high levies as larger higher risk companies. Perhaps they could be even exempt from the levy scheme if a tiered threshold was introduced.

Suggestions:-

Option 1

- A one euro TPF levy charged to each person at point of departure i.e. all airports and car ferries. This is our first and most desirable method to finance TPF. We deem this to be the most fair and equitable method for all parties concerned.

Let all members of the Travel Trade lobby the government to bring about legislation to enable this action... Collective, consistent and constructive lobbying is known to help accelerate the process of legislation.

Option 2

- Possible options which could be explored...
- The suggestion of a short-term government guarantee (until the TPF is restored) is a possible way of resolving the situation while legislation is being changed...
- A collective insurance scheme
- Adjustable bonds

- Option 3

With reference to proposed CAR Options / Option C: Leave Bonds unchanged.

Levy on Tour Operators and Travel Agents but with a proportionate fee application e.g. higher % on large companies & companies with a higher risk. Use a tiered lower risk system whereby a levy is reduced accordingly, perhaps even to the degree of no levy on small/medium T.A. who demonstrates extreme low risk!

- Imposing a levy on each customer at point of sale does not sit comfortably with us. Once again, why should our customers be subjected to paying for irresponsible trading/legislation which gives cause for the TPF to be used?

It is fully recognised that legislation is needed to implement some of the more favourable methods of funding the TPF, however, it is imperative to keep this in sight and work towards initiating the required legislative changes.

Small/Medium Travel Agents are constantly hit with charges/fees and in view of the fact they work extremely hard to make an annual profit with such low margins, this fact has to be taken into consideration. Likewise as outlined in your correspondence, the introduction of Package Travel Directive in Ireland will require a protection scheme.

From our perspective at this point in time we perceive the aforementioned suggestions in particular Option 1 to be the most fair.

With thanks for the opportunity to put forward our views and comments. We will need more in depth information to make further informed decisions.

Kind Regards,

Marie Grenham
Managing Director

Pauline Grenham
Director
Grenham Travel Ltd.

14. Grogan Travel

With reference to issue regarding Travellers Protection Fund, here are my thoughts and suggestions:

1. Any increase in bonding for Retail Travel Agents would not be acceptable –it is difficult enough to sustain bonding arrangements as they are.
2. Surely there must be some method of collecting €1 per person at ports of departure in Ireland – thus increasing Travellers Protection Fund – without delay
3. I would doubt that any person would have an issue in paying €1 to ensure that they are all bonded and secure when departing country
4. I would have no objection in collecting €1 per passenger booked through a retail agent provided they are issued with an official receipt by CAR to confirming bonding / protection
5. Stricter controls should be adhered to in relation to larger Operators/Agents - where there no alarms bells prior to Low Cost Holidays ?
6. As a member of ITAA, I understand that a submissions have also been arranged by CEO & President with which I complete concur

Yours sincerely,

Frances Grogan
Managing Director
Grogan Travel

15. Hillary Murphy Travel

In reply to the consultation document that was circulated to the travel trade on August 24th 2017, I wish to make the following submission as to why the options outlined within the consultation document are neither appropriate nor relevant, given the trading situation that has existed in the Irish market for some time now.

It is our view, that the current legislation should be scrapped and replaced by a completely new legislation, whereby the consumers themselves contribute towards their own financial protection, where international travel arrangements are concerned and for the following reasons:

1. The current legislation is extremely anti-competitive, as it penalizes small companies, similar to ours, with oppressive bonding and licensing requirements, whilst it ignores the application of similar economic constraints on larger companies, in particular airlines, even though they behave in the same way as travel agents and provide similar products and services as those offered by the travel agent.

2. The current legislation was produced in response to the collapse of Bray Travel in 1981. The drafting of that legislation was hugely influenced by the context in which that collapse occurred. The various factors that were contributors to that collapse back in 1981, no longer exist or apply and therefore the current legislation is obsolete in that regard.

3. The current legislation vastly pre-dates the development of the Internet and is therefore largely inadequate for accounting for the many anomalies which arise nowadays, because of the nature of online booking transactions.

4. Sources have attributed approx 18% of current international travel transactions to those booked via travel agents, however the current legislation does not provide any degree of protection for the remaining 80+%, i.e. those that book online with companies located outside the jurisdiction of the state / EU. Given those statistics, if the reason for such legislation is to protect the public, then clearly it is no longer fit for purpose.

5. Consumers largely accept that they must pay the appropriate insurance premium, if they wish to be protected against any adverse future events in respect to any of the following:

Their house

Their car

Their health insurance

Their life cover

Certain aspects of their travel arrangements

Their pets

Their mobile phones, tablets & laptops

Their hearing aids

It is therefore absurd, that they aren't expected to protect themselves against their travel supplier's failure or insolvency. Nowadays, consumers totally understand the concept of risk and therefore most of them choose to pay an additional insurance premium, to insure themselves against such risk. Some of those premiums can amount to thousands per year, i.e. health insurance, so it is highly inconceivable that any consumer would have an issue with paying a small fee or levy, each time they choose to book an overseas trip, which might require subsequent repatriation, especially if that premium was costing a minimal amount, i.e. a Euro or even less.

6. Option E in the consultation document proposed a doubling of current bonding levels from 4% to 8% in the case of travel agents. Many travel agents may not currently have the liquidity levels that would enable them to place the necessary bond amounts as security. They would be highly dependent on insurance companies or banks, to secure such bonds on payment of the applicable premiums. If the bond requirement doubled, this would most likely send a hugely negative message to both the insurance companies and the banks, you could even say warning bells, suggesting that the risk factor for travel agents had risen and this in turn could possibly result in both insurance companies and financial institutions refusing to provide such bonding cover into the future.

There seems to be an institutional reluctance, to make any change with regards to the current legislation, despite the evidence that it is no longer fit for purpose. It continues to expose a large percentage of consumers to potential personal financial loss, whilst simultaneously applying punitive costs to small companies like ours, whilst providing our much larger competitors with a free pass.

We are of the strong opinion, that the current legislation must be withdrawn and should be replaced with a much more fair and efficient model, as described above.

Sincerely,

Deirdre Murphy

16. Icon Travel

In response to the consultation document that you have completed, as a travel agent, I feel your proposals will not be suitable.

Of course it is natural for us as a business to wish not to pay a higher bond. Nobody wants to pay more for protection, unless of course they are getting value for their payment or a sense of fairness.

Your proposals are certainly not fair: Are all companies bonded that are operating in the state? I believe not. All companies that should be licensed & bonded but are not, must be handled with stronger measures such as immediate closure should they not comply instantly. Such companies are taking business from travel agents that are legitimately licensed & bonded and therefore affecting our turnover, margin and ability to contribute to a higher bond, all due to the fact that they are not monitored and closed down effectively. In your consultation paper paragraph 1.2 you state ‘

Currently, if a licensed travel agent or tour operator collapses, the costs of claims and associated administrative costs of processing those claims are paid from the bond that the travel trade firm will have posted when getting a licence. Therefore you can clearly see that if you have administrative costs then so do the travel trade, on an on-going basis and now you want to increase these costs which will quite possibly lead to an agent closure and a further drain on the bond. It will just lead to a vicious circle and is not the answer.

The travelling public MUST pay for this fund, it is for their benefit and I cannot understand why everyone else has to pay for them to be protected.

Travel agents currently pay more than a significant amount already and I happy to pay this current arrangement but I feel that this is enough to pay and any further costs will simply push agents out of business as the margins in this trade are quite low as you are very aware from studying our accounts every year. We have quite frequently been queried by CAR on the margin when we submit our accounts and now you want us to pay more to a fund which means basically (a) lower margin for agents or (b) higher prices charged to the public by agents. If (a) is your preferred result then some agents will go out of business, if (b) is your preference then it simply means we are charging clients more and paying this in to the fund/bond, which is basically making us a TRAVEL PROTECTION FUND COLLECTION AGENCY FOR C.A.R. which is more administrative costs for us. Can you not collect this as a tax or other format?

I really believe you should begin to realise the amount of paperwork and costs a small agency has to cope with before you start loading more of the same on to us.

Your sincerely

Don Flynn
Icon Travel

17. Irish Travel Agents Association ITAA

I am pleased to attach the ITAA's submission to the Commission for Aviation Regulation's Consultation on Travel Trade Consumer Protection Measures (the "Consultation"), which is the outcome of much engagement with our members and the wider travel trade industry.

I wish to acknowledge the positive engagement of the Commission with the ITAA, so far, throughout the Consultation.

Whilst the ITAA welcomes the Consultation, central to any reform is the need for certainty, stability and continuity.

Certainty, stability and continuity will not be achieved, should revisions be made to the travel trade consumer protection measures, that are not aligned to, one of the most significant changes to the regulatory regime, namely the implementation of the new Package Travel Directive, which is due to become law in less than four months.

Some thirty-five years have passed since the introduction of licensing and bonding for travel agents and tour operators and the associated consumer protection scheme for customers of licence holders. Over those thirty-five years, the travel trade experienced a rapid evolution, which created challenges and opportunities for the sector.

ITAA members provide an important and valued service to customers and play a key role in the independent distribution of travel services.

ITAA members offer consumers an alternative distribution system, to the direct sales option. ITAA members afford consumers the opportunity to make informed choices about the various options available to them in terms of suppliers, service, pricing, routing and itineraries.

Consumers can have confidence, when an ITAA member arranges travel services on their behalf, that they are dealing with regulated travel businesses, committed to enabling their customers make informed choices; providing support and assistance to their customers, from the time of booking and right through-out their trip; and being accountable to their customers, should things not go as planned.

In a time of increasing globalisation, ITAA members are also valued by suppliers, who rely on independent travel agents to bring their offerings to market.

Moreover, ITAA members have made and continue to make a valuable contribution to the Irish economy, providing employment for approximately 1,400 employees.

It is vitally important that any revisions to the licensing and bonding scheme are equitable, proportionate and transparent, so that the future of ITAA members is viable.

Yours sincerely,

Cormac Meehan President
ITAA

1. The Irish Travel Agents Association:

The Irish Travel Agents Association is a member organiser, founded in 1971, which has, for the past 46 years, represented Ireland's Travel Agents and Tour Operators. The Association brings together approximately 100-member companies covering 140 branches in different towns and cities throughout the Republic of Ireland. All ITAA members are licensed and bonded with the Commission for Aviation Regulation.

ITAA member businesses range from small businesses with an annual turnover of €155,000 to businesses with an annual turnover of €117,000,000. ITAA members carry on their businesses through mixed and varied mediums, including online, telesales and brick and mortar premises. ITAA members operate as, retail travel agents, tour operators, package organisers, corporate travel management companies and niche travel businesses.

Every year, since 2011, the ITAA has worked, with a travel bond provider, which arranges individual bonds for members ("Member Bond(s)"). Thereby, enabling ITAA members meet their obligations pursuant to Section 11 of the Transport (Tour Operators and Travel Agents) Act, 1982 and those arising from Part III of the Package Holidays and Travel Trade Act, 1995 (the "1995 Act").

Prior to 2011, the ITAA arranged a collective bond, in which members could participate. The ITAA Trust Fund, was established by the ITAA in 1986 (the "Trust Fund"). One of the purposes of the Trust Fund, is to improve the financial protection offered by members of the ITAA. Since its establishment, the Trust Fund has, put up collateral each year, to which the travel bond provider has first recourse, in the event of a call on a Member Bond.

The ITAA has been a CAR 'Approved Body' for the purposes of Part III of the 1995 Act since 1995. One of the principal aims of the ITAA is to promote the interests of its members in running viable and successful businesses in which consumers and suppliers can have confidence.

2. Background to the Consultation

In 2008, at the behest of the Minister for Transport, the Commission undertook a study of the travel trade licensing and bonding regime, which culminated with the Commission's Report to the Minister for Transport on Reform of Travel Trade Legislation in Ireland Commission Paper 8/2008 (the "2008 Report").

The Commission, in the 2008 Report, recognised that "..... the regulatory framework's internal coherence is questionable in requiring tour operators and travel agents to be bonded and licensed, but not other firms potentially competing for the same customers such as airlines and dynamic packagers".¹ (1)

The Commission, elected, at that time, not to make any recommendations to the Minister to change the members of the travelling public that should receive financial protection under the travel-trade regime in Ireland.

¹ Paragraph 1.4 Commission Paper 8/2008
Commission for Aviation Regulation

The ITAA and its members engaged extensively with the 2008 study and sought “. a genuinely universal consumer protection regime to protect those travelling out of Ireland from airline or other supplier failure”, through “the introduction of a system of universal protection for all the travelling public, funded by way of a small levy on all departures from Irish airports and ports, to protect consumers regardless of the manner in which they book their trip.”²

It continues to remain the position of the ITAA and its members that such a proposition would deliver the most effective cover to the travelling public, in an equitable, proportionate and sustainable manner. The unfortunate collapse of Monarch Airlines in recent weeks serves once again to underscore the merits of the ITAA’s position.³

3. Trading Environment

The vast majority of ITAA members are small and medium enterprises, established throughout the country, generating employment in their local towns.

Over the years, ITAA members have had to adapt to the advent of low-cost carriers, the internet, the direct-sell policies of suppliers, global geo-political and economic uncertainty.

More challenges are to come. In recent years, the ITAA members have found themselves competing with an increasing number of unregulated entities.

“A major disruptive factor over the next decade will be the extent to which regulators intervene to limit the power of larger players such as large airline carriers, mega meta-online travel agencies and travel management companies,”“In particular, the rise of gatekeepers such as Google and Facebook who thrive on the non- neutral advertising model will be determined largely by the level of regulation or deregulation in different regions.”⁴

Further, various initiatives by airline carriers, are already having the effect of hampering agents and consumers’ ability to make informed choices, reducing the options available for price comparison, flight information and the booking of connections with multiple airlines.

An independent research report, conducted by aviation economists GRA and supported the European Federation of Travel Agents’ and Tour Operators’ Associations (“ECTAA”), the European Passengers Federation (“EPF”), the European Technology & Travel Services Association (“ETTSA”) and air passenger rights watchdog Friendly Flying, released on the 11th October, 2017, found that “airline

² Page 3 “Trusted Travel for All”, Response of the Irish Travel Agents Association to The Commission for Aviation Regulation Consultation on the review of the Travel Trade Regulation in Ireland (Commission Paper 5/2008). See Appendix 1 to this Response

³ Monarch Airlines ceased trading on 2nd October, 2017

⁴ Page 4, “Travel Distribution: The End of the World as We Know It?”, conducted by the London School of Economics and commissioned by Amadeus IT Group - <http://www.amadeus.com/documents/reports/lse-report-travel-distribution-the-end-of-the-world-as-we-know-it.pdf>

mergers, acquisitions, joint ventures and code-sharing agreements, have over time contributed to a reduction in competition, fewer choices and higher prices for consumers.”⁵

In launching the report, Michel de Blust, Secretary General of ECTAA, remarked: “Neutral, independent travel distribution plays a critical role in providing transparency and real choice for consumers and travel buyers. As the study shows, if powerful airline groups are allowed to engage in discrimination of the neutral distribution channels, consumers will pay the price in the form of less choice and higher fares.”⁶

4. Summary of ITAA Executive, Board and Membership Engagement with the Consultation

7th June, 2017: Working session of the ITAA PTD Working Group convened. Participant’s input received in relation to the Commission’s Communication dated 19th May, 2017.

8th June, 2017: ITAA Board Meeting held in Dublin. Board members provided initial input to the ITAA’s response to the Commission’s Communication dated 19th May, 2017.

8th June, 2017: Representatives of the Board of the ITAA met with the Commissioner and members of the Commission’s executive, in Dublin.

13th June, 2017: Representatives of the Board of the ITAA met with the Commissioner and members of the Commission’s executive and representatives of ABTA in Belfast.

16th June, 2017: The CEO and the Legal Advisor of the ITAA met with Europe Economics, in Dublin.

23rd June, 2017: Cooney Carey prepared an initial position paper.

Summer 2017: Europe Economics met with various members of the ITAA.

7th September, 2017: ITAA Board Meeting held in Dublin. Board members provided further input to the ITAA’s response to the Consultation.

7th September, 2017: Representatives of the Board of the ITAA met with the Commissioner, in Dublin.

25th September, 2017: Email sent by ITAA to members. 27th September, 2017: Email sent by ITAA to members.

3rd October, 2017: Email sent by ITAA to members.

9th October, 2017: ITAA members attended CAR Information Session, Cork.

10th October, 2017: ITAA members attended CAR Information Session, Athlone.

10th October, 2017: ITAA members attended CAR Information Session, Dublin.

13th October, 2017: The Commissioner addresses the ITAA Annual Conference in Porto.

Question 1. Are there material developments in the market that have been ignored that are relevant when thinking about the effectiveness and efficiency of the current travel trade protection scheme?

The EU Directive 2015/2302 on Package Travel and Linked Travel Arrangements, (the “New PTD”), will enter into force in Ireland on the 1st January, 2018. Traders must comply with the New PTD from the 1st July, 2018.

⁵ Impact of Airline Consolidation on Consumer Choice, The role of indirect distribution channels in ensuring price transparency and promoting competition, prepared by GRA, Incorporated, Supported by ECTAA, ETTSA and Flying Friendly, 11th October, 2017

<http://www.etsa.eu/uploads/documents/20171011%20GRA%20Impact%20of%20Airline%20Consolidation%20on%20Consumer%20Choice.pdf>

⁶ <http://www.ectaa.org/files/cms/20171011-gra-study-press-release-and-qa.pdf>
Commission for Aviation Regulation

The ITAA is not supportive of any reform of the current licensing and bonding scheme which is not aligned with the New PTD.

The ITAA believes that the current travel trade consumer protection measures, have been integral to the manner in which the EU Directive 90/314 on Package Holidays, Package Travel and Package Tours (the “Current Directive”) is implemented in Ireland.

Under the New Directive, ITAA members, established in the State, will be required to have insolvency protection arrangements in place which will benefit travellers, regardless of their place of residence, place of departure or where the package is sold.

Traders financial security arrangements will have to cover all flight packages which they organise and all ‘flight-led’ Linked Travel Arrangements (“LTAs”) which they facilitate. These consumer financial protection measures go beyond the confines of the current travel trade protection scheme.

The very significant interplay between the financial security requirements contained in the Current Directive and the travel trade consumer protection measures, was recognised by the Commission in the 2008 Report. “Moreover, any recommendations must comply with relevant European Union directives, most notably the Package Holidays Directive”.⁷ It is imperative that, the current travel trade protection measures are reconfigured so as to be aligned with the financial security requirements of the New PTD. Any future travel trade protection measures will be of critical importance in enabling ITAA members discharge their financial security obligations under the New Directive.

The New PTD is a relevant material development, which has, unfortunately, been ignored in the Consultation, when considering the effectiveness and efficiency of the current travel trade consumer protection measures in delivering a coherent environment for traders and consumers. The ITAA sees no justifiable reason for this omission.

This is particularly so, when regard is had to the various calls for reform, made by the ITAA to Ministers, since 2008. Such calls for reform were declined on the basis that no reform could be undertaken pending the revision of the Current PTD, as any reform would have to be in aligned with a new directive.

The scope of the current travel trade consumer protection measures must be extended so that they are aligned with the New PTD.

As acknowledged by the Commission in its 2008 Report: -

“The definitions in both Acts (the Transport (Tour Operators and Travel Agents) Act 1982 and the Package Holidays and Travel Trade Act, 1995) currently give rise to misunderstandings; with even travel trade firms not always clear how to interpret the legislation when determining their licensing and bonding requirements.”⁸

⁷ Paragraph 1.5 Commission Paper 8/2008

⁸ Paragraph 3.6 Commission Paper 8/2008
Commission for Aviation Regulation

Further, the ITAA would contend that, the implementation of the New PTD, renders the alignment of the current definitions of travel agents and tour operators with the New PTD all the more imperative.

Any reform of the current licensing and bonding scheme, will have an unsettling effect on the sector. Businesses and bond providers will have to make adjustments to accommodate any changes. Disruptions of this nature to a business sector should be kept to a minimum.

Undertaking reform in a disjointed manner by deferring the alignment of the scheme with the New PTD to a later stage will, undoubtedly, create uncertainty and a lack of clarity, with ITAA members having to contend with additional unwarranted disruption to their businesses.

One potential outcome of piecemeal reform would be ITAA members having to put in place, on a temporary basis, unaligned and possibly overlapping financial security arrangements, pending further reform of the licensing and bonding scheme so as to align it with the New PTD.

Further, any revision of the current travel trade consumer protection scheme, that does not encompass the New PTD will serve to place ITAA members wishing to carry on business in other Member States, at competitive disadvantage, in that the financial security arrangements which they would be required to have in place by the Irish licensing and bonding regime would not respond to the scope of the New PTD. This is a matter of particular concern to ITAA members in the border areas with Northern Ireland.

Additionally, under the New PTD, packages and linked travel arrangements purchased on the basis of a general agreement for the arrangement of business travel, will fall outside of its scope. Any review of the definition of licensable turnover, will be required to avoid the risk of gold-plating of the New PTD, which is a maximum harmonisation directive.

“Good regulatory practice dictates public policy goals should be realised as efficiently as possible: any additional costs associated with realising the policy goals should be kept to a minimum. The importance of keeping the regulatory burden low is perhaps especially important in the case of the Irish travel trade regime, if licensed travel agents and tour operators are not to be put at an undue competitive disadvantage.”⁹

2. Do you agree with the finding that the current scheme is not effective in protecting consumers?

Arguably the current scheme has been effective in protecting customers of regulated businesses.

The following two extracts from the Europe Economics Interim Report are notable: -

“At a most basic level the current scheme has been effective: consumers who have bought packages covered by the current regime from licensed and bonded Irish travel agents or tour operators have enjoyed financial protection. On occasions when a travel-trade firm has ceased trading and been

⁹ Page 28 Europe Economics Interim Report on the Bonding of the Irish travel trade industry, August 2017
Commission for Aviation Regulation

unable to meet all its obligations, customers overseas have been repatriated and those yet to travel have had (valid) claims for refunds paid out in full.”¹⁰

However, the ITAA does not view the current scheme as effective in protecting the greater travelling public.

As acknowledged by Europe Economics, in its Interim Report on the Bonding of the Irish travel trade industry, August 2017, when the current scheme was introduced 80% of travel services in the State were distributed by travel agents and tour operators. Now only approximately 20% of travel services are distributed by travel agents and tour operators. Consequently, the majority of travellers are not covered by the current travel trade protection scheme.

The regrettable demise of Monarch in recent weeks, brings into sharp focus, the distress on the part of those customers of Monarch, principally, air passengers, that found themselves without financial security protection and/or a right to be repatriated.

There was undoubtedly an expectation and desire on the part of those unprotected Monarch customers that their flight arrangements with Monarch would have been protected.

3. Do you agree with the finding that the scope to reduce the costs of the current scheme while maintaining the current level of consumer protection is limited?

We would submit that Question 3 is inherently flawed; a corollary of limiting the scope of the Consultation to the maintenance of the current level of consumer protection, is that it precludes consideration of alternative options that may have the scope to reduce costs.

The ITAA would contend that a universal consumer protection regime, would serve to reduce costs, while at the same time, affording protection to the majority of the travelling public.

The migration from ATOL bonding to the ATOL Protection Contribution (a per passenger contribution), in the UK, is accepted as having yielded a reduction in the overall costs associated with businesses meeting their financial protection requirements while maintaining the same financial protection for consumers.

“... the ATOL Protection Contribution, which is generally considered to be less onerous on the travel industry”.¹¹

As an alternative to the Options outlined in the Consultation, pertaining to the replenishment of the Traveller’s Protection Fund (the “TPF”), the ITAA proposes that an insurance policy and a credit facility, should be put in place by the Commission to provide additional liquidity to the TPF, to meet “high impact low probability” failures (“HILPFs”).

¹⁰ Page 18 Europe Economics Interim Report on the Bonding of the Irish travel trade industry, August 2017

¹¹ Paragraph 232, page 49, The Department of Transport Report of the Strategic Review of the CAA, 2008

<http://webarchive.nationalarchives.gov.uk/+/http://www.dft.gov.uk/pgr/aviation/domestic/pillingreview.PDF>

Were the Commission to have insurance policies that provide it with access to funds in the event of there being a shortfall with the TPF

This would be a cost - effective means of “steadying” the TPF, without requiring any rushed reform, pending a comprehensive reform of the licensing and bonding regimes.

The ITAA calls for a detailed scoping of this proposal in the impact assessment which is to be undertaken by the Commission.

It behoves the Commission to manage the TPF to ensure that it will be a going concern. The arranging of an insurance policy could, in particular, serve to ensure a self-sustaining fund, without placing a disproportionate burden on compliant licence holders, who find themselves having to subsidise failed businesses.

There may also be scope to reduce the costs of the current scheme, while maintaining the current level of consumer protection, by the removal of monies collected by retail agents, on behalf of licensed tour operator products

Retail travel agents, when selling tour operator holidays, are doing so in the capacity of the tour operator’s agent. The customer’s contract is with the tour operator, which is liable to provide the holiday regardless of whether the monies have been remitted by the travel agent. The inclusion of this turnover is a duplication of bonding, which if rationalised, may yield some cost reductions for travel agents, by not having to meet the cost of bonding this turnover.

4. Do you agree that to be effective, the scheme needs to be designed with sufficient contingency to be able to meet all claims in full in the event that there are two collapses in a single year that give rise to the same level of claims as the two largest collapses in the history of the scheme? If not, what criteria would you propose?

The ITAA and its members do not agree with the supposition that to be effective, the scheme needs to be designed with sufficient contingency to be able to meet all claims in full in the event that there are collapses that give rise to the same level of claims as the two largest collapses in the history of the scheme.

The ITAA has communicated to the Commission, the disquiet expressed by its members, in relation to the collapse of Lowcostholidays (“LCH”) in June 2015 and the depletion of the TPF by some €3.34 million, as a consequence of LCH being under bonded by a multiple of 9.

Clarification is still awaited from the Commission to why LCH was brought within the licensing regime, in the first instance, given the relocation of LCH to the Balearic Islands and being licenced there.

There is a concern that the collapse of LCH is overly influencing the Consultation. The following commentary from Europe Economics is noteworthy: -

“...But this finding is driven by the collapses of Lowcostholidays and Failte Travel

There have been two collapses that give rise to claims totalling in excess of the 80% of projected licensable turnover.If we excluded them from the analysis, claims as a percentage of projected licensable turnover would be 3.1 per cent for travel agents and 5.7 per cent for tour operators.”¹²

Further, it is acknowledged in Europe Economics report that most businesses don't fail, most businesses are over bonded.

Having regard to the consideration being given to the replenishment of the TPF. The members of the ITAA view the introduction of levies as essentially amounting to the subsidisation of former competitors, who failed to have comprehensive financial security arrangements in place.

Again, the collapse of Monarch, serves to underline this, with continuing companies been required to burden the costs of repatriating Monarch passengers who were not protected by the scheme.

5. Are there other reforms that you think should have been considered? How would these reforms ensure that all consumers protected enjoy full financial protection?

As set in our response to Questions 1& 2 the extension of the travel trade protection scheme to all of the travelling public, should have been considered and any reform that is not aligned with the New PTD is seriously misguided and will be damaging to the trade and consumers alike.

6. Which of the reforms do you think the Commission should pursue, if we conclude that the current scheme needs changing? Why?

The following input is made so as to inform any future reform proposals, which would align the current scheme with the New PTD and increase the members of the travelling public protected.

Redefining Licensable Turnover

There is general consensus that a sizable amount of licensable turnover is not at risk as a consequence of the factors identified in the Commission's Paper 8/2017, namely: -

- Significant growth in direct bookings with airline and accommodation providers;
- Payments by credit and debit card proliferating; and
- Travel agents holding onto customers' money for shorter time periods.¹³ Furthermore, most business house clients are invoiced after travel.

The ITAA would be supportive of reform measures which would ensure that only those payments that are at risk are required to be protected.

However, the ITAA does not agree that the redefining of licensable turnover, to exclude payments immediately made to suppliers and trips paid after the event, entails an adjustment of the percentage bonding requirements, to twice the remaining licensable turnover, predicated on an assumption that

¹² Page 20 Europe Economics Interim Report on the Bonding of the Irish travel trade industry, August 2017

¹³ Paragraph 2.4, page 2, Commission for Aviation Regulation Consultation: Travel Trade Consumer Protection Measures, Commission Paper 8/2017

the remaining licensable turnover would be at a greater risk than the licensable turnover as originally defined.¹⁴ Further, in this regard, Options D&E would not be cost neutral as suggested by Europe Economics in its report.

Various ITAA members, with differing business models, applied Options D&E to their current turnover. They have reported that the amount of turnover which could be removed from Projected Licensable Turnover (“PLTO”), were either of Options D&E to apply, falls under 50%. The average reduction in PLTO yielded by Options D&E would be 30%. The level of corporate business that a travel agent conducts could have a big impact on the potential turnover to be excluded from licensable turnover.

Replenishment of the TPF

As stated in the response to Question 4, the ITAA and its members do not agree that to be effective, the scheme needs to be designed with sufficient contingency to be able to meet all claims in full in the event that there are collapses that give rise to the same level of claims as the two largest collapses in the history of the scheme.

The TPF is only drawn on where the bond maintained by the failed licence holder is insufficient. “Most firms that collapse...have had a bond in excess of what was necessary to meet the claims arising, i.e. with the benefit of hindsight, a lower bond would have sufficed for these firms”¹⁵ The average draw on the TPF since 2008 has been €395,972 (excluding administration costs, which were approximately, €18,319).¹⁶ On this basis the TPF as it currently stands has sufficient contingency to meet two average collapses.

The introduction of a one-off levy and on-going levy will result in unacceptably heavy burden on licence holders. Any contingency funds to respond to HILPFs should be met by an insurance policy. The Commission, by putting an insurance policy in place, together with credit facilities, would thereby have contingency measures in place to meet HILPFs.

Summation:

The alignment of the licencing and bonding regime with the New Package Travel Directive is paramount to create stable and certain trading conditions for the travel trade and would serve to improve consumer understanding and confidence in the travel trade consumer protection measures.

Gaps in consumer protection should be removed. Reforms cannot result in unacceptably heavy burdens on licence holders. The principles of better regulation require that the cost of reforms should reflect risk. Market based solutions, such as insurance policies and credit facilities should be put in place to respond to the “high impact low probability failures”.

Any transition must be fair to licence holders to allow adequate time to adapt.

¹⁴ Page 41 Europe Economics Interim Report on the Bonding of the Irish travel trade industry, August 2017

¹⁵ Page 19 Europe Economics Interim Report on the Bonding of the Irish travel trade industry, August 2017

¹⁶ * It is noted that no cost data per activity type is available since 2010 Page 29 Europe Economics Interim Report on the Bonding of the Irish travel trade industry, August 2017

ATTACHMENT



“Trusted Travel for All”

Response of the Irish Travel Agents Association

to

**The Commission for Aviation Regulation consultation on a
review of the Travel Trade Regulation in Ireland
(Commission Paper 5/2008)**

October 2008



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Almost three decades have passed since the most important piece of legislation which governs the travel trade was enacted. These have been years of strong growth, and considerable change, for our industry, yet the fundamental approach to travel trade regulation has remained static, becoming increasingly outdated. The review, being undertaken by the Commission on Aviation Regulation (CAR) is, therefore, long overdue and very welcome.

In reality, the Irish Travel Agents Association (ITAA) views this exercise as addressing three different challenges at once:

- The challenge to bring equity and proportionality to our system of travel trade regulation, with flexible structures that can adapt to a dynamic industry that has always evolved quickly.
- The challenge to urgently modernise the existing legislation that imposes unacceptably heavy burdens on license holders.
- The challenge to devise a genuinely universal consumer protection regime to protect those travelling out of Ireland from airline or other supplier failure.

Some might argue that the current system of regulating Travel Agents and Tour Operators should be left as it is while Government reflects on the arguments for and against different models of universal consumer protection. However, this would be a serious mistake. The current system, devised at the beginning of the 1980s, is manifestly broken. It needs to be fixed in the short term. It is strangling the development of indigenous Irish travel companies, and its operation is contrary to many of the Government's principles of better regulation.

The good news is that our current approach to the regulation of Travel Agents and Tour Operators can be vastly and quickly improved without recourse to time consuming primary legislation.

ITAA members are licensed. We provide bonded travel services, and hence a high level of consumer protection. We deserve a responsive regulatory regime that adapts to the changing market in our sector. This is the first review of the 1982 Act in more than 25 years. We look forward to swift conclusions and equally swift reforms arising.

Jim Vaughan
President
31 October 2008

Executive Summary

Ireland's travel industry has seen considerable growth and development in recent decades. It has evolved to keep pace with the changing needs of consumers, and to face the challenging business environment of the 21st century. However, the regulatory and legislative framework under which the industry operates has not responded accordingly. The result has been that travel trade regulation in Ireland has increasingly grown out of touch with the industry, and the travelling consumer.

This has had very negative consequences. By failing to deal appropriately with the change, both licensed travel agents and the travelling consumer have been disadvantaged. An incomplete and inequitable travel trade licensing regime, coupled with a lack of proper protections for the group of consumers who do not book through licensed operators, is the major legacy of the lack of reform in this area.

The ITAA believes that it is vitally important for all stakeholders – licence holders, consumers, trade employees and, indeed, the taxpayer – that regulatory structures for the travel industry are developed which are flexible, proportional, equitable, and which will allow the industry to grow and develop for the future. Significantly enhancing consumer protection, and reducing the unnecessary regulatory burden on compliant licensed businesses in the sector, are fundamental reforms which are urgently needed.

In this submission, the ITAA is outlining a series of recommendations which will, we believe, introduce these positive characteristics into the regulatory system for the travel trade in Ireland, including:

- The introduction of a system of universal protection for the travelling public, funded by way of a small levy on all departures from Irish airports and ports, to protect consumers regardless of the manner in which they book their trip
- Pending radical reform of the system in favour of the introduction of this system of universal protection, the level of bonding to be fixed at 2% immediately
- The introduction of a number of modernisations in travel trade regulation, with a view to substantially reducing the administrative burden on traders
- The adoption of a proactive and innovative approach to tackling illegal trading in the travel sector
- The development of a structured stakeholder consultation process to enhance communications between key stakeholders such as the ITAA and the CAR

The changing economic environment in Ireland – and throughout Europe and wider world – has cast a particular spotlight on the travel industry. In recent months, we have seen the failure of a number of high profile suppliers, such as Zoom and XL Airways, which have highlighted the considerable gaps in consumer protection at this time.

The ITAA believes that the challenge facing the travel industry today is clear – a far more efficient, reformed and modernised approach to travel trade regulation needs to be introduced, coupled with the significant expansion of protections for the consumer.

Our recommendations will allow these goals to be achieved.

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Section 1. Background to the ITAA's submission.

This submission is the result of an extensive consultation with license holders undertaken by the Irish Travel Agents Association (ITAA). Founded in 1970, the ITAA is the representative body for Travel Agents and Tour Operators in Ireland. Amongst the Association's stated aims is the creation and maintenance of standards among its members for the betterment of consumers and the industry. Members of the ITAA are eligible to participate in a collective bond, administered by the ITAA, which allows them to meet both their obligations pursuant to Section 11 of the Transport (Tour Operators and Travel Agents) Act, 1982 and their obligations which arise pursuant to Part III of the Package Holidays and Travel Trade Act, 1995.

In recent years, the Association has consistently pointed to the incomplete and inequitable nature of the travel trade licensing regime and to the considerable exposure facing many consumers who do not book through licensed operators. For example, in 2004 the Association sought a meeting with Minister for Transport Brennan to discuss this matter. In October 2005 the ITAA and ITOF jointly presented to the Oireachtas Committee on Transport urging urgent reform. The same year Minister for Transport Cullen attended the ITAA Conference where the issue was again raised with him. Minister of State Gallagher was also pressed on the issue at the ITAA's 2006 Conference.

Therefore, we welcome the decision by Minister for Transport, Noel Dempsey T.D. to launch this review subsequent to further representations from the Association. We also welcome the active engagement of the Commission in the review process, the wide ranging consultation paper which was published in early September, and the manner in which the Commission has made itself available to engage in discussion with stake holders during the review process.

ITAA's internal consultation process

Both before and after the consultation paper's publication the ITAA has been listening to the concerns of license holders including members and non-members, travel agents and tour operators. The ITAA's own consultation process has included considerable outreach to the industry. We organised a series of four regional consultations meetings (Dublin, Carickmacross, Cork and Ennis) in May 2008 to assess the views of our members. This was followed by an invitation to our members to respond to the Commission's Terms of Reference. Subsequently, the ITAA Board prepared a response to Commission on issues we felt warranted particular attention in the review exercise (Letter of 12 June - appendix (i)).

During the summer months, the Association continued to reflect on the key issues under consideration in this review and drew some lessons from the contrasting experience arising from the closure of airlines and Tour Operators. Our letter to the Commission of 29 August, issued in the wake of the collapse of Zoom Airlines (appendix (i)), drew attention to the need for greater consumer awareness of the risks of exposure in the event of airline failure, and also the gaps in protection afforded by both credit and debit card purchases and in travel insurance cover. The subsequent

failure of XL Airways underlined, with great emphasis, the points we made at that time.

During the summer months, the ITAA also engaged in detailed exchanges with the Commission on the issue of appropriate bonding levels for travel agents. We have identified reform in this area as the simplest and fairest way of alleviating the unnecessary burden on agents. The fruits of this exchange are summarised in our proposal to move to 2% bonding in section 3.2 below.

Once the Commission published its consultation paper on 2 September the ITAA launched an intensified discussion with license holders. This included a special Board review of the options under consideration, and consultation with members and the Irish Tour Operators Federation. Our intensified discussion culminated in a special half day consultation meeting of license holders on Wed 8 October which more than 80 Tour Operators and travel agents attended. The session included a discussion with the Commissioner for Aviation Regulation. Subsequently, the meeting agreed the core elements of this submission, which has been finalised and approved by the ITAA Board.

The value of independent travel companies

It should be noted that the travel trade in Ireland is a sector that has shown remarkable resilience given the changes in the travel industry in recent years. One could argue indeed that it ought to be nurtured rather than oppressively regulated.

The sector comprises approximately 400 businesses. The vast majority are small indigenous enterprises seeking to compete in a highly globalised international services industry. Our members generate employment in towns throughout Ireland.

Travel professionals make a significant contribution to ensuring competition in the travel market in Ireland, facilitating the distribution of many travel services that would not be able to gain a foothold and compete against the extremely dominant travel brands without the support of independent retailers. A reduction in the number of travel agents in Ireland will be the likely outcome if the reforms we are seeking are not delivered.

Section 2. Towards a system of universal protection for the travelling public.

The Commission's paper makes the point that only a fraction of travel purchases by Irish residents are protected by the relevant regulatory regime. This is a result of the manner in which the travel market has changed since 1982, when the current legislation was drafted. Many consumers now buy direct from suppliers such as airlines. New, unregulated intermediaries, such as "bed brokers" and car hire brokers, have emerged. Internet commerce has significantly reduced the relevance of national borders and national consumer protection regimes. The amount and type of travel bought has also grown enormously resulting in more overseas trips, and more trips per capita. And, finally, efficiencies in the aviation sector which have reduced the cost of leisure travel have probably been particularly significant for Ireland as an island nation.

In our response to the consultation's terms of reference (Appendix i) we pointed out that the review should develop a wide perspective of consumer protection including the relevance of the Consumer Protection Act 2007 and also take into account the nature of protection afforded by both insurance products and credit card purchases.

Nowadays, many consumers' travel arrangements are not financially protected to any significant extent. To recall:

Many consumers are not insured for their travel

According to the Irish Department of Foreign Affairs less than 50% of travelling consumers have travel insurance.

Travel insurance may not cover the relevant risks

Much of the travel insurance on offer does not protect against supplier failure. The coverage afforded by the different insurance policies in relation to airline and/or supplier failure is varied, with some policies not providing any cover in respect of airline and/or supplier failure and other policies providing limited coverage. It should be noted that those insurance policies which provide cover in respect of airline and/or supplier failure limit or exclude coverage by reference to the type of travel service supplier from whom the consumer purchased their travel service. This leads to the situation where different groups of consumers, who may all have bought identical travel product/arrangements, are not afforded access to equal insurance coverage.

Credit and debit cards refunds (when available) do not cover consequential loss.

Credit card purchases often provide protection in the event that a specific service, such as a flight, is not provided. However, they offer no cover against the loss if other services, including connecting flights and hotel reservations, which may be lost as a consequence of a cancelled flight. In addition, it ought to be noted that, in contrast to the UK, there is no statutory obligation on credit card companies in Ireland to provide refunds.

Costs of repatriation will greatly exceed card refund amounts

In the event that an airline fails to deliver the return leg of a trip, and the consumer is stranded and obliged to make new arrangements at short notice, the costs are normally very much greater than the value of any refund that might be secured on a credit card.

An airline's membership of IATA does not guarantee refund or repatriation

The historical "gentleman's understanding" that one IATA airline would ensure the repatriation of customers in the event of the closure of a different airline can no longer be relied upon in this era. Many airlines are not members of IATA now (notably the "no-frills" airlines) and even those that are in IATA take a much more hardheaded approach to obligations and costs.

In fact, in general only consumers who have bought what we might call "organised travel" are protected i.e. where a licensed operator has assumed responsibility for the fulfilment of the trip regardless of the risk of failure of any particular supplier (airlines, transfer provider, accommodation supplier etc.)

Consumers seem to be oblivious to this lack of protection. The problem seems to fall between two stools, as the National Consumer Agency has been silent on the issue while the Commission explains to consumers that their remit only covers consumer claims arising from the closure of a licensed travel agent or tour operator.

The ITAA believes that the time has come for the development of a more comprehensive or "universal" protection scheme for those travelling out of Ireland. An efficient scheme could be put in place that would protect consumers regardless of the manner in which they book their trip. We believe this could be best administered through a small levy (of probably significantly less than one Euro) which could be collected on departures from Irish airports and ports. This levy could go towards protecting monies spent by consumers with entities of various sorts including airlines, tour operators, travel agents, and other traders who would be prepared to subscribe to the scheme and who would be awarded the "*trusted travel*" identity.

The scheme could be collected by a universal departure levy (on trips originating in Ireland) where claimants would have purchased services from a "trusted travel licensee" in order to benefit in the event of supplier failure.

Indeed, the plan for an Air Travel Tax announced in Budget 2009 by the Minister for Finance earlier this month provides an opportunity to move quickly towards such a levy-based universal protection system. If this tax is to be implemented, a small amount of the levy funds could be ring fenced to build up a reserve to protect passengers from supplier failure. This is a matter that the ITAA is exploring with the Department of Finance.

The main purpose of a levy would be to refund consumers in the event of supplier failure and assist with repatriation where required. In this, it would fulfil the same function as the current scheme which applies to Agents and Operators, but with far greater coverage being afforded to the travelling consumer.

One could imagine that a fund built up from the levy could ensure necessary cover through a combination of cash reserves and an insurance policy (in a manner similar to the ITAA's current Collective Bond)

Clearly, if such a scheme was put in place it would replace the existing schemes for Travel Agents and Tour Operators in operation under the 1982 Act. It would also respond appropriately to the European obligations to provide a scheme for financial protection for consumers who purchase package holidays as required under the 1995 Act. In the ITAA's view, the European definition of a package holiday is archaic and obligations to protect consumers can be effectively bypassed by unregulated travel companies who offer holidays but avoid the strictly defined concept of a package.

In this respect, the ITAA also believes that, whilst it is not unambiguously stated in the Commission's consultation paper, Option 3 – "End scheme and rely on market to provide protection" – is simply not possible given the constraints of the EU's Package Travel Directive 90/314/EC.

If the Government is seriously committed to ensuring a high level of consumer protection in the travel field, we believe that a universal scheme as proposed by the ITAA is most appropriate. While not all travel sold to Irish consumers will be covered, the vast majority of trips will be protected, consumers will be able to understand clearly whether their trip or trip components are covered, and the inequities of the current system would be reduced.

The details of the scheme, including eligibility, grounds for refund claim, and avoidance of moral hazard would need to be worked out by a stakeholders group including CAR and the ITAA.

Section 3. Substantial overhaul of the current system.

3.1 The need for an overhaul.

Addressing gaps in consumer protection is one thing. Reforming the existing outdated, costly, inequitable and inefficient regime is another. The CAR's consultation paper reveals many of the problems with, and costs of, the regime. A substantial overhaul of the current system is urgent and must not await what we fear may be a long period of reflection on any potential new universal protection regime.

Our overall critique of the current system is based on two key concerns.

Firstly, the requirement for bonding imposes a heavy financial penalty on regulated businesses by forcing them to ring fence a significant fraction of working capital solely to satisfy bonding requirements. This obligation constrains companies from competing and distorts the market, and does not apply to our non regulated competitors such as airlines selling travel services on their websites, bed brokers etc.

Secondly, businesses in our sector are being oppressed by a system that breaches key principles of the Government's own better regulation strategy. In particular, the principle of proportionality, which was one of six set out by Government in its White Paper in 2004, is relevant:

“Proportionality

We will regulate as lightly as possible given the circumstances, and use more alternatives.

We will ensure that both the burden of complying and the penalty for not complying are fair.

We will use Regulatory Impact Analysis appropriately when making regulations.”

The CAR's own consultation paper notes that:

“The current licensing regime does not distinguish between businesses of different sizes (other than in the licence fees tour operators pay). The potential numbers of consumers requiring redress in the event of a small travel agency ceasing to trade would be much smaller than for a larger company, yet the risk assessment that both companies must pass to qualify for a licence is broadly similar. As a result there is equality across all travel agents regardless of whether they are small family licensed businesses or large incorporated companies. Smaller agents may find licensing costs a relatively greater burden than their larger counterparts”.

This comment illustrates one of the most obvious failings with respect to proportionality. A system designed to supervise quite large companies is not suitable for micro enterprises. Indeed, the Better Regulation White Paper also goes on to state:

“In Small and Medium Enterprises, owners and managers tend to combine a number of functions, and administrative compliance is not easily delegated or contracted out. Excessive compliance requirements and administrative procedures that are insensitive to the special difficulties of SMEs will deter new entrepreneurs and distract existing enterprises from innovation and expansion.”

This accurately reflects the experience of ITAA members who point out that much valuable time is spent ensuring their technical compliance with a tight and outdated framework while those not caught in the regulatory net are ignored and free to develop their business.

It is the strong opinion of the ITAA and its members that the existing system is unacceptably costly, imposes excessive administrative burdens and impedes the basic ability of our member companies to compete on a level playing field.

We welcome the fact that the consultation paper acknowledges some of these difficulties and opens up a discussion on the scope for reform of both financial requirements and administrative obligations. Pending the replacement of the entire scheme with a universal protection arrangement we would emphasise the following steps as interim steps to relieve the burden on agents.

3.2 Fixing a bonding requirement of 2%.

For Travel Agents, in particular, we believe that the requirement for companies to provide a 4% bond is unnecessary. Pending radical reform of the system we believe that full consumer protection would still be assured if the required bonding level was fixed instead at 2%. This change could be made by the Commission for Aviation Regulation using its own powers. It could be done immediately upon the conclusion of this consultation process so that it could apply to those agents renewing their licences as of 1 May 2009.

We would make the following points to support this recommendation;

1. Bonds of this level are rarely, if ever, required.

An analysis of bond calls since 2000 shows that 2% is adequate to cover the costs arising from that small percentage of agents whose closure triggers any call on the bond. On the following page we attach our own analysis of the levels of calls made in recent years together with a short commentary;

2. The travel agent business model has changed - reducing risk

In previous correspondence and discussions with the Commission we have demonstrated that changing funds transmission practices, and the reforms in business models in the sector, have meant that agents typically hold customers monies for very short periods of time (for example many flights are now instant purchase transactions by agents). Consequently, on those rare occasions where agency closures lead to calls on bonds the amounts involved have not been substantial;

Notes to Table

On the table on previous page we show the ITAA's analysis of claims on bonds since 1999. It might be noted that this analysis takes no account of the many licences that were allowed expire without any call on the bond at all (due to merger, retirement or other reason for exiting the sector).

The analysis illustrates that travel agents who do not also operate as tour operators triggering calls on the bond during the period very rarely caused claims of more than 2% of licensable turnover. One might also note that the level of percentage call has trended downwards over the recent years and that the sums involved in calls arising from the closure of such travel agents is small.

In the early years of the decade a small cluster of Travel agencies with substantial tour operating activity closed also. However in these cases the call on the bond was attributable to Tour Operating losses and a "knock on" impact on their travel agency activity.

One might also note that the Travellers Protection Fund (the reserve fund built up some years ago) earns deposit interest annually. The total earned in the six year period 2001 and 2006 was €1,238,103. Only approximately 10% of this interest was spent on covering top up amounts required arising from travel agent closures during the period in question.

3. Rationale of 4% level was never explicit or justified

There was no firm logic to the original (and current) level of agent turnover bonding of 4% established at the time that the legislation was enacted in 1982. This was originally described to our Association's representatives in the early 1980s as a number that could be reviewed "after a couple of years". Now, in 2008, this level is finally being reviewed for the first time, but the time that has passed since this bonding level entered into operation has more than demonstrated that it places an unnecessarily high burden on ITAA members;

4. Requirement to tie up cash damages adaptability and competitiveness

As mentioned above, the very requirement to set aside 4% of total turnover as a bond seriously damages the competitiveness of small businesses. It is a disincentive to investment and weakens our ability to compete with companies offering similar services who are not required to be bonded as they are outside the scheme;

5. The principal of reduced burden though collective bonding was lost during regulatory drafting.

The original concept was that a collective bond covering a large number of licence holders could be set at a lower level than individual companies would have to provide. This could still provide the necessary level of consumer reassurance but at considerably less cost to businesses. However, despite being a core part of the pre legislative discussions between the industry and Government, this was never enshrined in the legislation enacted. As a result, the ITAA's Collective Bond, for example, must provide cover every year for the sum of all participants' individual bonds requirements.

6. This is the simple solution.

An alternative to a flat rate bonding requirement of 2% would be to engage in a complex re-analysis of what ought be defined as licensable turnover and what levels of risk might be imputed to different types of turnover (as contemplated in Paras 5.72 - 5.75). We would caution against this approach, particularly in the short term. It might be useful as part of a fundamental reform but ought not to be the cause of any delay in reducing the extent of over-bonding which can be easily and promptly addressed.

7. Effective cost management in the event of repatriations can ensure that the level of calls on bonds is minimised.

In the event of a failure and call on a bond (of tour operators in particular) the most substantial costs arising relate to the need to secure flights and other services at short notice in order to achieve repatriations. Good scenario planning and an active collaboration between the regulator and the industry can ensure that the costs incurred in responding to a closure are minimised thereby reducing the risk of any call on the reserve Travellers Protection Fund. The Commission should be able to intervene when companies are evidently at risk of failure so as to manage down the level of consumer exposure at least cost.

Pending the Government's decision on the wider issues of licensing reform we consider that it is within the CAR's own powers to amend the level of bonding required with immediate effect so that agents renewing their licences in the spring of

2009 would be required to post a bond of 2%. This power should be exercised immediately.

3.3 Reducing Administrative burdens.

There are several useful proposals in the consultation paper about the manner in which the administrative burden of licensing and bonding might be reduced. These would go some distance to addressing the excessive regulatory burden referred to in section 3.1 above.

Indefinite as opposed to annual licences

The ITAA supports the idea of indefinite licenses with the right for the Commission to withdraw licenses as appropriate. The current process of annual license renewal is a serious administrative burden imposed on small business managers as well as a substantial administrative cost. While we are aware that the Commission proposes to bring the processes on-line in the near future, which might assist, the provision of indefinite licences would be vastly more sensible.

Examination of Business Credentials

We believe that there is little point in the Commission seeking to examine business credentials – particularly as the examination of such credential is not of assistance to the Commission in addressing the risks identified in the consultation document.

Removal of audit obligation for small businesses.

Many smaller agents would benefit from the small business audit exemption if it were not for the Commission's requirement for Audited Accounts. A lighter requirement with respect to the provision of annual financial data could undoubtedly be devised which would reduce the cost imposition on small agents.

Single Licence for Tour Operators and Travel Agents

We note the Commission's comments concerning the merits of a single licence for all travel trade companies. While we believe that such an initiative would have attractions we are not convinced that a single licence requires a unified bond. This is something we would like to examine in more detail with the Commission.

We would definitely support a harmonisation of renewal/review dates for the filing of any data required by the Commission. It is an anachronism that ITAA members who hold both types of licence are currently required to renew their travel agent and tour operator licences at different dates. It is extraordinary to think that such a minor detail cannot be adjusted without secondary legislation.

Option of Collective Bonding for Tour Operators

The current legislation provides for the option of Collective Bonding for Travel Agents. The ITAA provides such a bond and has recently sought to develop a Collective Bond service for Tour Operators also. However, this request has been rejected by CAR on the basis that it is not envisaged in the legislation. This option should be facilitated in any reform.

3.4 Financial protection considerations.

Collection on a fee per trip basis

We note with interest the reflections in the consultation paper on option 9 “*End bonds and rely on TPF funded by fee per trip.*” This, of course is the model that was launched by the CAA in the UK in spring of this year. While this system may sound attractive, we oppose this approach if it is to exclusively relate to “*purchases covered by the [current] regime*”. If a TPF/levy scheme is to be introduced it should cover all purchases of trusted travel as argued in section 2 of this submission.

Escrow accounts

We disagree with the suggestion that escrow accounts might be appropriate in the travel sector.

Firstly, no case has been made that this sort of heavy regulation system is necessary.

Secondly, the sort of system lends itself to scenarios where service providers (e.g. solicitors) are custodians of relatively small numbers of large sums of money for long periods of time. The travel sector involves the holding of large numbers of small sums for short periods of time. Therefore the costs of administration and, in particular, supervision would vastly outweigh the benefits.

Thirdly, the objective we are pursuing is to simplify the whole licensing and bonding process and to level the playing field with other players. To impose escrow requirements on travel agents and tour operators without also imposing them on airlines (who tend to hold clients monies for much greater periods) would be most unjust.

Finally, the practicality of operating such a system given the diversity of transactions and payment systems involved in the very diverse travel sector is highly questionable.

3.5 Enforcement considerations

Illegal trading

The comments in the consultation paper on this topic are disappointing. While the Commission may have been successful in any prosecutions related to illegal trading, the number of such prosecutions has been minimal and the penalties handed down by the courts have been derisory. Reform should include the fixing of higher minimum and maximum fines for illegal trading.

More importantly, however, the Commission could take a different approach to policing illegal trading which would have much greater impact and serve to highlight to consumers the risk of booking unregulated travel. Ideas which the ITAA would be happy to explore with the Commission would include: an activist approach to inspections of any person thought to be trading illegally, collaboration between the Commission and the Gardaí, the use of practices such as ‘mystery shopping’ and the development of a dialogue and forum involving the Commission and representatives of license holders to identify trends and areas of concern.

The consultation paper contemplates the idea of delegation of enforcement to local authorities. However, given the need for a level of expertise in what is and is not illegal trading (considering the complexity of the regime) and the fact – acknowledged by the Commission – that many vendors of travel services are internet based we believe that enforcement responsibility should stay with the industry regulator.

Exemption from licensing for clubs and schools and parishes

Many community groups such as parishes and schools and sports clubs work with professional travel agents when planning overseas trips. There are considerable benefits to groups in doing so. These relate to cash flow, financial control, planning, problem resolution, and provision of appropriate insurances as well as the most obvious issue of travel and destination knowledge and value for money.

Frequently, community groups prefer to entrust responsibility to a regulated professional rather than an individual volunteer who may or may not be of sufficient reliability to be entrusted with large amounts of, for example, student or parishioners monies. In this context it would be unwise to provide an exemption for such bodies.

Definitional issues would also undoubtedly arise from such an exemption, with the emergence of “travel clubs” to circumvent a regulatory regime applying to compliant license holders.

Consideration should also be given to the protections afforded to consumers under the 1995 Package Holiday Act and the relevant EU Directive. Exempting such groups from the requirements of the 1982 Act should not be taken without considering how participants entitlements under the 1995 Act would be protected.

3.6 Structured dialogue to ensure relevance and equity in the regime

In the recent past there has been reasonably good dialogue between the Commission and the ITAA. However, this has not always been the case. Better regulation principles would suggest that any reform of the regime should also envisage a structured stakeholder dialogue on an annual or bi-annual basis where there would be an opportunity for regulated businesses to explore issues of concern and where improvements in different aspects of the regime could be proposed and developed. We would envisage the creation of such a structured stakeholder dialogue to be an important outcome of this review process.

Section 4. Summary of Recommendations

Recommendations on Universal Protection for the Travelling Public

The ITAA recommends that the systems by which the travelling public are protected be comprehensively overhauled and modernised, and that a universal protection scheme be introduced for those travelling out of Ireland which would protect consumers regardless of the manner in which they book their trip.

The ITAA recommends that this scheme of universal protection should be funded by way of a small levy on all departures from Irish airports and ports.

The ITAA further recommends that a small amount of the levy that is to be collected by way of the recently announced Air Travel Tax could achieve this purpose by being ring fenced to build up a reserve to protect passengers from supplier failure.

Recommendations on Bonding

The ITAA believes that the requirement for travel agents to provide a 4% bond is unnecessary. Pending radical reform of the system in favour of a universal scheme of protection as called for in this submission, the ITAA recommends that the bonding level be fixed at 2%, that this change be implemented immediately, and that it apply to agents renewing their licences as of 1 May, 2009.

Recommendations on Reducing Administrative Burdens

The ITAA strongly recommends that steps be taken to reduce the administrative burden of regulation on businesses in the travel sector. Specific ITAA recommendations in this regard include:

- The introduction of indefinite licences to replace the current annual licensing approach
- Ending the examination of business credentials by the CAR
- Examining the possibility of issuing single licences for Tour Operators and Travel Agents
- Harmonising the renewal/review dates for the filing of data required by the CAR
- Facilitating the introduction of collective bonding for tour operators

Recommendations on Financial Protections

Whilst noting with interest the option of ending the bonding regime and relying on the TPF funded by a fee per trip model, the ITAA would recommend against following this course of action if the scheme to be introduced would only cover the same travel purchases as are covered by the current regime.

The ITAA strongly recommends against the introduction of escrow accounts on the basis that no case has been made for this heavy regulatory response, that the costs of administration and supervision of these accounts would far outweigh the benefits of same, and that this approach would seriously undermine attempts to simplify the licensing and bonding process and provide a level playing field for the industry.

Recommendations on Enforcement

The ITAA recommends that the Commission adopt a stricter and more proactive approach to tackling illegal trading, including fixing higher minimum and maximum fines for illegal trading.

The ITAA also recommends that enforcement responsibility should remain with the Commission.

The ITAA recommends that an innovative approach be adopted to tackling illegal trading in the travel sector, including:

- An activist approach to inspections of any person thought to be trading illegally
- Collaboration between the Commission and the Gardai
- The use of practices such as ‘mystery shopping’
- The development of a dialogue and forum involving the Commission and representatives of license holders to identify trends and areas of concern

The ITAA recommends against the introduction of an exemption from licencing for groups such as clubs, schools and parishes.

Recommendations on Dialogue

A structured stakeholder consultation process, to take place on an annual or bi-annual basis, should be put in place to enhance communications between key stakeholders such as the ITAA and the CAR.

Appendices



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Mr Niall O'Connor
Commission for Aviation Regulation
Alexandra House
Earlsfort Terrace
Dublin 2

12 June 2008

Dear Niall

Re : Review of Travel Trade Regulations

I refer to the Commission's invitation to comment on the draft terms of reference published on 22 May last.

The Irish Travel Agents Association (ITAA) welcomes the Minister's decision and the Commission's engagement in a review of licensing. We concur that the regime is outdated and broadly agree with the terms of reference as set out. In previous exchanges we have highlighted to the Commission a range of concerns related to equity, administrative burden, enforcement and consumer protection arising from the regime currently in operation. We believe these matters are within the scope of the published terms of reference and we look forward to them being dealt with comprehensively in the review which is now commencing.

At this stage we would draw attention to four elements that are not explicitly referenced in the notice, but which we believe will have importance in ensuring the review is successful.

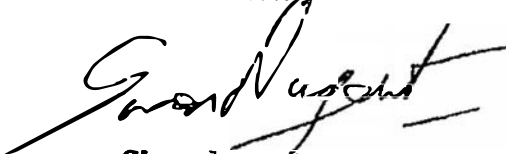
- Firstly, the reference to "on-line vendors" in the terms of reference must be broadly interpreted. In particular, airlines that sell not only flights but also a wide range of other travel services, through their websites currently fall completely outside the travel trade consumer protection regime. The development of other on-line suppliers of travel services such as accommodation brokers also needs to be taken into account as do on-line

travel agents based outside the jurisdiction and beyond the reach of the existing licensing regime.

- Secondly, the extent of development of horizontal consumer protection legislation since 1982, most recently the Consumer Protection Act 2007, should be taken into account in the review. In this respect it might be noted that there is an absence of any specific regime of consumer protection in the event of airline insolvency.
- Thirdly, the consumer protection afforded through financial services such as credit card purchasing and various travel insurance products is extensive and ought be taken into account in such a review.
- Fourthly, we would recommend that a review would embrace an analysis of best practice in regulation in other jurisdictions both within and beyond the EU so as to identify the least burdensome, but effective, regimes that apply.

The ITAA looks forward to playing an active and constructive role in the full review that is to roll out over the coming months. We are at the Commission's disposal to provide any information on the experience of our members - licensed and compliant travel agents and tour operators - as may be required.

Yours sincerely



Simon Pit
Chief Executive



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Mr Cathal Guiomard
Commissioner for Aviation Regulation
3rd Floor
Alexandra House,
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Dublin 2.

29 August 2008

Re: Airline Passenger Protection

Dear Cathal

The news that Zoom Airlines ceased flying today and the problems and costs that customers are facing illustrates vividly one of the most yawning gaps in the current travel regulatory regime. As the ITAA has pointed out previously, the absence of Government regulated financial protection in the event of airline collapse is not widely understood by consumers - many of whom assume that the Travel Trade regulations protect all travellers' monies.

While we believe that addressing this point is a very important element of the regulatory review currently in train, we would also suggest that in the short term the Commission consider a communications strategy to help consumers understand that such flights are not protected.

In particular we believe there is a dangerous lack of clarity as to what entitlements people might have in the event they have made (a) credit card and (b) debit card purchases. The Association's own efforts to clarify this issue have so far been inconclusive. What we do know is that consumers ought not assume the UK entitlements apply here. Another issue that warrants clarity is that of the protection offered by different travel insurance products in the event of airline collapse.

Naturally this is also an area where the ITAA and members will also continue to work. However, there are issues where the CAR's intervention could be extremely effective in highlighting issues and steps that consumers might take to protect themselves. Given the trends in the aviation sector and the economic climate we would suggest an initiative in this respect is urgent.

Yours sincerely

Simon Nugent
Chief Executive

**Note on ‘Regulatory Burden and Proportionality’
in context of
CAR’s Review of Travel Trade Legislation in Ireland
Tom Ferris, Consultant Economist.**

1 **Context:** This Note focuses on ‘Regulatory Burden and Proportionality’ in the context of the Commission for Aviation Regulation (CAR) Review of Travel Trade Legislation in Ireland. It is interesting to note that CAR¹ recognises in its Paper that:

“A natural first question to ask of any licensing regime is: are the costs of the scheme proportionate? There are a number of aspects of the current regime that give rise to administrative costs that seem unnecessary to critics:

a. Businesses seeking a tour operator and travel agent licence must apply for and pay for two separate licences.

b. Licences must be renewed annually, with some information resubmitted.

c. The audited accounts required are onerous to provide. Larger companies operating in a number of jurisdictions query why they have to provide separate accounts, while smaller companies complain that it can significantly add to their audit bill.

d. Complying with information requests that the Commission may make throughout the year”.

Seeking to have a licensing regime, where the costs of the scheme are proportionate, is consistent with the principles set-down by Government, in its White Paper on ‘Regulating Better’ (January 2004) – see **Appendix 1**. In particular, the Proportionality Principle is very relevant, namely to regulate as lightly as possible given the circumstances, and to use more alternatives; to ensure that both the burden of complying and the penalty for not complying are fair, and to use Regulatory Impact Analysis appropriately when making regulations.

2. **Administrative Burden:** The Travel Trade is not unique in having to cope with administrative burdens. Across all the different business sectors, administrative burdens are seen as a growing problem. As a consequence, there is a growing move in Europe to cut ‘red tape’ and to reduce administrative burdens. The CAR Paper recognises this problem and notes that such burdens are not spread equally across the travel trade. Specifically, the paper states² that: -

“The current licensing regime does not distinguish between businesses of different sizes (other than in the licence fees tour operators pay). The potential numbers of consumers requiring redress in the event of a small travel agency ceasing to trade would be much smaller than for a larger company, yet the risk

¹ See Paragraph 3.20 of “Review of Travel Trade Legislation in Ireland”, which was published by the Commission for Aviation Regulation, on 2 September, as Commission Paper 5/2008.

² See Paragraph 3.22 of “Review of Travel Trade Legislation in Ireland”,

assessment that both companies must pass to qualify for a licence is broadly similar. As a result there is equality across all travel agents regardless of whether they are small family licensed businesses or large incorporated companies. Smaller agents may find licensing costs a relatively greater burden than their larger counterparts”.

But what of the initiatives that are being taken to tackle the problem? In March 2007, the EU Summit endorsed a European Commission’s initiative to tackle administrative burdens. The Heads of State and Government set an ambitious 25% target for reducing the burden of administration that falls on companies as a result of legislation originating at EU level, to be achieved by 2012. In terms of domestic legislation the targets are more flexible. The Summit invited Member States to set their own targets for legislation originating at national level, recognising that the different starting points and traditions have to be respected.

The Irish Government committed itself to implement the target set for EU derived legislation and also to tackle administrative burdens arising from national legislation. Specifically, the Government has set a target to reduce the administrative burdens caused by national legislation by 25% by 2012, a process in which all Government Departments will participate. This target is in support of the EU-wide approach. Furthermore, the Government has decided that all new regulations should be subject to measurement of the administration costs to business with a view to keeping them to the minimum. The Minister for Enterprise, Trade and Employment was given responsibility to lead a cross-Departmental and agency initiative, working in co-operation with business in addressing regulatory burdens. The First Report on this initiative, which is chaired by the Secretary General of Enterprise, Trade and Employment, was completed recently – a matter addressed in the next Section.

3. High Level Group: The First Report of the High-level Group on Business Regulation was completed last July³. In an opening statement, the Chairman declares that

“...the burden imposed by regulation should always be proportionate. In recent times, Governments internationally have begun to challenge the cost of regulation, to both Government (and thus the taxpayer) and business, in terms of diverting resources that could be used more productively elsewhere. In particular, there has been a determined effort to reduce the ‘red tape’ factor, i.e. the administrative cost to business when making returns, completing applications, keeping records etc., in compliance with Government regulatory requirements”.

These comments that are very pertinent in the review of travel trade legislation. The Chairman went on to say that Ireland must guard against imposing avoidable costs on business. The Group’s Report that accompanies the Chairman’s introduction outlines a series of concrete measures in specific policy areas – Taxation, Statistics, Environment, Health & Safety and Employment & Company Law. The Group’s Report provides evidence that reducing administrative costs has widespread practical

³ Report to the Tanaiste and Minister for Enterprise, Trade and Employment, High-level Group on Business Regulation First Report, July 2008

benefits. The working examples contained in the Report and the Group's future work programme also demonstrate that, with some innovative thinking, the application of new technology and the use of tools to measure costs and benefits, real long-term efficiencies can be delivered. **Appendix 2** reproduces the section of the Report dealing with the 'Approach of the High-Level Group'. The full Report is available on www.entemp.ie

Appendix 1

Government White Paper on 'Regulating Better', January 2004

This Government White Paper, of January 2004, set out six principles for better regulation. The principles are the following: -

Necessity

We will require higher standards of evidence before regulating.
We will reduce red tape.
We will keep our regulatory institutions and framework under review.

Effectiveness

We will target our new regulations more effectively.
We will make sure that regulations can be adequately enforced and complied with.
We will ensure that existing regulations in key areas are still valid.

Proportionality

We will regulate as lightly as possible given the circumstances, and use more alternatives.
We will ensure that both the burden of complying and the penalty for not complying are fair.
We will use Regulatory Impact Analysis appropriately when making regulations.

Transparency

We will consult more widely before regulating.
There will be greater clarity about Public Service Obligations.
Regulations will be straightforward, clear and accessible.

Accountability

We will strengthen accountability in the regulatory process.
We will improve appeals procedures.

Consistency

We will ensure greater consistency across regulatory bodies.
We will ensure that regulations in particular sectors/areas are consistent.

Appendix 2

Extract from

Report to the Tanaiste and Minister for Enterprise, Trade and Employment, High-level Group on Business Regulation First Report, July 2008

relating to

‘Approach of the High-Level Group’

“In approaching its work the Group is concerned to ensure that administrative savings to business are effected without undermining the policy objectives behind the regulation. This means that the protections afforded to workers or the environment, for example, will not be weakened in any way as a result of reducing the cost to businesses of administering the regulation concerned. In fact, the Group believes that enabling regulations to be dealt with more efficiently by both businesses and the regulating authority would help to improve compliance and, therefore, make regulations even more effective. The initial approach of the Group was to examine specific issues under the five priority areas identified by the Business Regulation Forum and in the workshops held to identify the specific regulations which businesses find most onerous, burdensome or irritating. The Group revisited the submissions to the Business Regulation Forum, received during 2006, to identify concrete issues of concern to business. The listing of issues arising from both sources is contained in Appendix B and has been reviewed by the High-level Group. They can be categorised under a number of headings. Some were already under consideration or acted upon by other bodies; some are under consideration at present, either by the High-level Group or in other fora; and some, because they are matters of policy rather than administration, fall outside the remit of the Group. Through its work over the past twelve months, the Group identified a number of short term and longer-term actions which already had reduced or would, in the near future, reduce the administrative burden of Government regulations on business. In particular, the Group focused on measuring the costs to business and the savings that could be achieved”.

Anomalies Arising from the Current Travel Trade Licensing Regime (Prepared by the ITAA's Legal Advisor)

Since the enactment of the Transport (Tour Operators and Travel Agents Act, 1982, (the "1982 Act") the implementation and application of the various provisions of the 1982 Act has given rise to lack of clarity and inconsistencies which the members of the ITAA and their advisors have found perplexing. Both CAR and the ITAA, find themselves frequently in the position of having to consider and advise in relation to various provisions contained within the 1982 Act, acknowledge that as the 1982 is currently worded the legislation gives rise to anomalies and inconsistencies which operate to the detriment of both consumers and travel agents. Cited below are a number of the most salient examples of such anomalies. It is submitted that in any future revision of the legislation the following anomalies must be remedied.

1. Overseas Travel Contracts

The protection afforded by the 1982 Act is limited to "**overseas travel contracts**, namely *contracts for the carriage of a party to the contract (with or without any other person) by air, sea or land transport to a place outside Ireland, whether the provision of the carriage is the sole subject matter of the contract or is associated with the provision thereunder of any accommodation, facilities or services.*

A direct consequence of this definition is to deny consumers who purchase vouchers from both licensed travel agents the protection afforded by bonds maintained by such travel agents until such vouchers are "put against" the cost of a particular booking.

Aside from requirement to adhere to the strict wording of the legislation, there seems no strong basis for denying consumers who purchase vouchers from licensed travel agents equal protection of such monies pending the presentation of such a voucher for payment towards the cost of a particular travel arrangement.

2. Exclusion of Carriers

As has been acknowledged within the CAR's own consultation paper and is more generally fully accepted the varied means of distribution of travel services has grown exponentially and continues to do so.

The definition of Travel Agent (and indeed tour operator) in the Transport (Travel Agents and Tour Operators), Act, 1982 specifically states that such term does not apply to *Carriers*.

A consequence thereof is that consumers, who purchase directly from a *Carrier*, be it an airline; ferry company or other carrier is denied the protection of its monies paid in respect of the service to be provided by such carrier, when dealing directly with a *Carrier*.

There seems no justification for the differentiation in the level of protection afforded to consumers' monies relative to the particular supplier in whose control the monies are held.

3. Regulatory Requirements are being by-passed by on-line vendors

CAR specifically acknowledges and invites further comment in relation to the ability of on-line vendors of travel services to structure their business in such a way so as to avoid regulatory requirements.

As a consequence of two significant developments in travel, namely the Internet and the emergence of low cost carriers, the consumer has increasingly the ability to book directly with other travel service providers through the web sites of such travel service suppliers, who in turn offer such consumers the ability to access the web sites of other suppliers of travel services. The consumer is often not aware that the combination of various travel services which he has purchased in this fashion is not protected by the current regulatory regime.

This has resulted in both a distortion of competition as between suppliers of essentially identical travel services being subject to markedly different levels of compliance and in the unjustified and unfounded differentiation in the treatment of consumers of what are often identical travel services.

It is often the case that consumers are unaware that they are not protected giving rise to a concern that they are purchasing travel services in the mistaken belief that they have protection when they do not.

It is submitted that if it is the case that the protection offered by the current regulatory regime is considered important, it should be provided to all consumers of all travel services regardless of from whom they have purchased their travel service; otherwise, it is inequitable to both consumers who find themselves not protected and those specific parts of the travel industry that is required to bear the costs and burdens of the system.

4. Scope for Inconsistent Application of the Bond

Section 13 (3) of the Transport (Tour Operators and Travel Agents) Act, 1982 provides that the bonds maintained by licence holders are to provide *“that, in the event of the inability or failure of the tour operator or travel agent concerned to meet his financial or contractual obligations in relation to overseas travel contracts, a sum of money will become available to the Minister, or to any person nominated or approved of by the Minister, as trustee, to be applied for the benefit of any customer of the tour operator or travel agent concerned who has incurred loss or liability because of such inability or failure to meet financial or contractual obligations”*.

The above wording is broad ranging, essentially providing that upon a travel agent being unable to fulfil its financial or contractual obligations in relation to an overseas travel contract, the bond is to be applied for the benefit of a customer affected as a consequence.

In the event that there are some qualifications as regards the circumstances in which a bond will or will not be applied; such qualifications should be clearly stated for the benefit of consumers; suppliers; agents and principals.

5. Licensable Turnover

The definition of "*licensable turnover*" namely "*the total of receipts by an applicant for a travel agent's licence in respect of overseas travel contracts to which these Regulations apply during the period covered by the applicant's latest audited accounts*", as provided for under SI 183 of 1983, would appear to require considerable adjustment given the variety of payment methods utilised by suppliers of travel services, whereby for example consumers monies are remitted by direct debit; or credit card payments are made to suppliers thereby resulting in the instant purchase and delivery of the relevant travel service; all significantly reducing if not completely eliminating the retention by travel agents of clients monies.

The failure to revisit this definition having regard to the developments in payment methods will continue to result in consumers' monies being either unnecessarily bonded or bonded to a disproportionate extent.

18. JK Travel

I refer you to the meeting with agents on Tuesday 10th October 2017 at which you advised those present of difficulties facing the Commission due to the depletion of monies in the Travel Protection Fund. During the discussion that followed there were a number of issues raised but not all, I believe were given adequate consideration. These need to be addressed and done so urgently if the matter is to be properly resolved.

The first question to be asked is how effective the Commission has been in its policing of bonded companies. As an example, Low Cost Holidays was not covered by ATOL since 2013 and also relocated to Spain yet it continued to be bonded through the Irish scheme. Small Irish businesses now have to foot a substantial bill for what appears to be mis-management on the part of the Commission. Moreover the absence of any acknowledgement from the Commission of a lapse of supervision on its part begs the question of its role.

The second question is how is the Fund to be financed in the future. Increasing the bond paid by agents is out of the question. The first consideration should be the introduction of legislation allowing a levy on clients. Secondly, expand the scope of bonding. It is outrageous that large companies such as Airlines and Bedbanks are currently excused from bonding but small agencies, dealing with a fraction of the business, are so heavily “put upon”. The expansion should also include online traders – after all the Commission is in place to protect all citizens travelling abroad yet nothing has been put in place regarding these. I believe that if agents and their clients are to feel secure then a complete overhaul of the system is required not only in the scope of bonding requirements but also in its policing.

Yours sincerely
Jackie Spain
JK Travel

19. Joe Walsh Tours

In brief, we have largely the same views that are held by many travel agents and tour operators as follow:

- Our customers pay much later than before and we are passing on payment to our suppliers (particularly airlines) much earlier than before with payments to airlines often made before departure date to secure the seats.
- A greater number of customers are now paying by credit card.
- We would find a levy, in addition to a doubling of the bonding level (after taking account of the revised definition) particularly harsh.
- We believe that airlines and bed banks must be included in the bonding process.

We hold a licence with the UK authorities, the Civil Aviation Authority (C.A.A.) and they operate a scheme whereby a fee per passenger booked is applied as opposed to paying a considerable amount of premium to an Insurance company each year to fulfil our bonding requirements. We find this scheme to be very effective, well operated and transparent and linked to actual travel as opposed to forecast licensable travel that is operated by C.A.R.

Regards and thanks,
Maggie Carlin

20. Just Split - Village Travel Limited

It's axiomatic to say that effective regulation works for the benefit of all stakeholders. It's also true to say that regulation imposes a burden on those firms that are regulated. But if that burden is imposed in a way that is fair to all market participants and provides tangible benefits to consumers who value them, then that regulation is worth having.

Historically, it has been the objective of every licensed Travel Agent and Tour Operator operating in the Irish market to work with the Commission for Aviation Regulation (CAR) to ensure the travelling public are protected under the bonding scheme in compliance with Irish regulation.

However, there has not only been a structural change to the market and the way travel products are distributed, but there has been a fundamental shift in buyer behaviour. Consumer buying patterns have changed fundamentally and this has led to the travelling public placing less value on the Irish system of regulation.

Some observers would say that most customers buying travel today place zero value on our consumer protection regime. This is evidenced in the exponential growth in DIY packages where consumers make their own travel arrangements without the obvious intervention of any agent or tour operator. Customers have moved away en masse from buying 'bonded' products. However it is also a fact that customers are often unaware that they are buying travel products through Online Travel Agents (OTAs) who are based outside of Ireland.

The question arises then as to why we have a consumer protection system in the way that we currently have? If the consumer places no value on bonded travel packages, why do we have a system of bonding? What model of consumer protection should we have?

The Competition & Consumer Protection Commission (CCPC) sets its vision 'for open and competitive markets where consumers are protected and empowered and businesses actively compete'. The contradiction between what this policy aspires to and the policy as implemented by CAR is obvious.

The current system of travel regulation makes it difficult for licensed travel firms to compete with unlicensed firms who now dominate the market. The barriers to market entry remain high for licence-holders. The current proposal to levy firms that are licensed would further erode the competitiveness of those firms. Long term it would deny consumers any level of protection due to the inevitable demise of licensed firms in the market. It would no longer be an attractive commercial proposition for licensed firms to enter or remain in that market.

Therefore the proposals in their present form fail to meet the criteria of the CCPC because they are anti-competitive. Simply put, they would impose further costs on license holders only, and ignore the many other suppliers that Irish consumers buy travel products from.

Background

1. The commitment and goodwill of the licensed travel trade towards having an effective system of regulation should not be underestimated. The Industry has demonstrated a high level of compliance over 35 years, having been to the forefront in advancing the need for, and working with the Department of Transport in the early years, to develop and implement a successful system of regulation for the travel industry and for the protection of the travelling public.

2 Over the intervening years Industry representatives were clear with Government and the Commission on the need to bring the system of regulation up to date. Irrespective of the number of consultations and meetings held between both sides over that time, Government and its agencies ignored industry calls for reform of the system.

3 Licensing and Bonding is expensive and I disagree with the consultation paper where it says that it is not a material cost. The Industry is a low- margin industry with typical returns of 1% to 2% net. In 2008 CAR estimated the cost of the process averaged €3.50 per passenger. Because this is an average, the cost of regulation is higher for small firms and lower for large firms. Ironically the risk of consumer disruption arising from a business failure is low in the case of a small firm and high in the case of a large firm.

4 Licensed travel firms are relatively small in scale and together account for less than 20% of the market. As such those firms are 'price takers' and do not have the scale nor the power to set market prices. Firms currently absorb the cost of regulation as part of their cost base. Any further increase to those costs would be highly damaging.

5 In any case, the Competition Authorities would take a dim view of firms that would 'collude' to pass agreed costs onto consumers. Therefore the costs of regulation have to be absorbed unless the entire travel market is levied by central Government.

Need for Reform

6 Any reform of the regulation designed to protect consumers, must begin with that consumer. The regulation must track consumer behaviour. There is little point in having a policy aspiration to protect the travelling public, if more than 80% of the travelling public opt to purchase non- bonded products from unlicensed suppliers. Like many other retail products, the choice of where a consumer can purchase travel, continues to grow, as technologies merge and purchase options and lines of supply become fragmented. The challenge is to have regulation that works.

7 The funding shortfall in the Travellers Protection Fund (TPF) has now led to the current consultation process. The scope of the consultation is viewed as narrow with a limited agenda, i.e. to repair the shortfall. The Industry feels that there is now an urgent need to address the imbalances that arise from the current regulation. Furthermore there is a strong belief that working to replenish the TPF alone will not fix the real problems and possibly create greater problems for all involved. Unless there is fundamental reform, the system of regulation will fail both the consumer and the industry as it is now configured. The current process must address the issues outlined in the points below.

Improving Effectiveness

8 The current licensing process, where applications are made for a new licence every 12 months, is time consuming and a waste of resources for all involved. The preparation and submission of large volumes of statistics each year is a time consuming and unnecessary part of the regulation process and dates back to a time pre technology. Substantial efficiency gains could be made by streamlining the process. Too much information, some of which has little relevance to the performance of the business, is of no use to the business or the regulator.

9 The current licensing system is not only inefficient but it is also less than effective. We have only to look at the two big drawdowns from the TPF to illustrate this point. Today, high quality risk assessment of a business is based on limited but selective data. It is a much more effective policy to concentrate on that key business metrics, and will lead to better outcomes both for the business and the regulator. The current system of risk assessment is out of date and needs to be modernised.

10 Large scale companies pose the greatest risk. The Commission's limited resources must be applied on the basis of where the risk of greatest disruption is, rather than a one-size fits all approach, as we currently have.

11 Effective regulation has to be viewed as a continuous process, rather than a 'once-off' event. The structural changes that have taken place in the industry are not once-off events. Changes to our domestic market continue to be driven by global market forces and in particular, by the large Online Travel Agents (OTA) who are operating outside the system.

How does a small regulator's team in Dublin, which is designed to administer a tiny domestic market, cope with large multinational suppliers? If the Irish Regulator continues to ignore those multinational and unlicensed suppliers, by definition they are making properly licensed firms less competitive by adding the cost of regulation to that business.

12 The Regulator and the Travel Trade must work together, rather than the current 'arms-length' approach. The Regulator cannot operate effectively without a continuous flow of industry knowledge and expertise? I believe a permanent forum is required through which there could be an exchange information and expertise. This proposal has been put forward by industry representatives more than once. A stakeholder forum as I suggest should not be seen as a 'talking-shop' but would be clear and limited in its scope. No more than 3 senior industry figures should be nominated and the group could meet every six months. The potential benefits that would arise from the ability to exchange industry knowledge and expertise are evident.

13 Every strategy needs the right expertise and the Commission must apply the resources and right level of expertise to manage the system of travel industry regulation. Areas such as Finance and Risk Management are critical areas and travel industry knowledge would be very beneficial. Does the Commission have the necessary expertise?

14 In an environment where the Regulator is more in tune with the Industry, the development of an 'early warning system' should be on the agenda.

Where firms are experiencing trading difficulties, they should be confident to talk either directly or indirectly to the Regulator. This could lead to directing supports for such a firm, which may lead to either the recovery of the business or the orderly winding down of the firm. Developing a model of this kind would avoid the 'crash' approach to a firm that ceases trading and would lead to a much more controlled and possibly less expensive outcome for the regulator. Again, close cooperation between both sides would be required on an ongoing basis for this model to work.

15 The Regulator needs to have power to discourage asset stripping in cases where firms cease trading. Questions remain unanswered in relation to the collapse of large travel firms. Why did they cease trading at a time of the year when cash reserves are normally at their highest? Why was the call on their bonds excessively high relative to their trading levels? While these questions remain unanswered, the view that assets of the firms involved may have been misappropriated will persist. The powers of the Regulator must be clear in this area.

What levels of Consumer protection? Who pays?

16 Today's consumer understands that limits apply in all areas of consumer protection. Unlimited cover doesn't exist anywhere anymore. From Banks to Insurance companies, across all business types, limits of protection apply either by way of caps on pay-outs or claim's excess. The current system of travel regulation gives unlimited cover. As a concept, it is therefore impossible to project funding needs for bonding based on this criteria. Protection levels should be structured to apply limits to the levels of cover offered for future travel purchases.

17 Every consumer wants to be able to make an insurance claim when they need it. Until that day comes, consumers would prefer not to have to pay for the insurance policy. At least 50% of travellers out of Ireland do so without buying travel insurance. Should we not allow the consumer to choose on the level of cover they wish to pay for in relation to all protection, including bonding? The challenge of designing a system of regulation that offers financial protection to a consumer, who does not want to pay for it, is a difficult one for the Regulator and for policymakers. Loading more costs onto licensed firms who offer the last remaining levels of financial protection to the travelling public cannot be the only answer.

18 In 2017, the Supreme Court ruled in the case of Setanta Insurance where that company ceased trading and left behind unpaid claims from its customers. The Court ruled that it was not the responsibility of the remaining firms in the industry to pay for the unpaid claims of Setanta. While this case is in a different industry and the facts under consideration were specific to that case, one of the factors the judges considered was the idea of 'commercial common sense'. Given the unquantifiable scale of the losses, it did not make commercial common sense for firms in the insurance industry to agree to pay unlimited amounts on claims for firms that failed.

It cannot make commercial sense for licensed travel firms to have a system that keeps topping up the TPF on the same basis.

19 Why pay out unless there is full disclosure? Insurance companies refuse to pay out where the insured has failed to provide accurate information. If the Commission expect the licensed travel trade to be the underwriters to the TPF, then terms and conditions need to be applied.

The Current Proposals (Commission Paper 8/2017)

Many of the questions asked in the Commission paper are framed in the context of making no fundamental change to the current system of regulation. In reality, going back to 'the way things were' is not an option. The current system came to the end of its natural life-cycle some years ago. The missing element in the paper is that it fails to recognise the fundamental change in consumer behaviour. Policymakers must be presented with options that reflect today's reality, not one that existed 40 years ago when market participants were easily identified and easily defined.

Back in 2008, Commission Paper (5/2008) explored a range of policy options that recognised many of the emerging issues at the time. Option 1 in that paper discussed the idea of extending cover to all trips out of the State.

I believe it is worth re-visiting this idea. Within our jurisdiction we either have comprehensive cover or no cover and unless policymakers recognise this, consumer protection in relation to travel products will remain in a 'grey' area and fail the consumer it seeks to protect.

Reform options proposed

In relation to the specific reform options put forward in the current paper, these options are not feasible.

On the basic calculation of the amount each individual firm should bond for, the CAR statistics show average claims for travel agents amounting to 3%. Why would we propose to move that level to 8% when based on these statistics, we are already over bonding? Even on a smaller turnover, it would increase bonding levels for leisure agents by up to 40%. Here again we see the problems with a 'one size fits all' approach.

On the proposal to impose levies to replenish the TPF, the proposal is based on a 40 year old policy. Without wider reform of the system, it would now impose an unfair advantage on unlicensed holders, while directly damaging the business of licence holders. Its imposition would be unfair on licence holders and would undoubtedly be open to challenge.

Conclusion

In this submission I have addressed the issues in relation to Travel Trade Consumer Protection measures from the point of view of my business, which is a small business.

While the consultation paper issued by the Commission is limited in the options it presents, it is clear that the current Travel Trade regulation is hopelessly out of line with the requirements of today's industry practice as it continues to evolve. In particular, it is out of line with the way the majority of the travelling public purchase travel.

In that context, I have addressed the issues as I see them and where I view the need for change. To have no system of consumer protection is not desirable.

Yet by continuing along the current path, that is where we will end up. Imposing unsustainable costs on a small segment of the travel industry will be detrimental to license holders.

In a small business, it is not possible to separate the licensing process from the bonding process. It's not possible to 'cherry-pick' and change one element of the process without impacting on the others. For that reason I believe that improving the administrative and risk assessment procedures involved in licensing, would lead to improvements in the overall performance of the regulatory system. Making the system itself more efficient would make it more effective.

The proposals as they are presented in the consultation paper are not feasible for a small business and would not achieve their desired objective in the longer term.

The Commission has a valuable resource in the form of the licensed travel trade. It can be a source of market intelligence where a considerable amount of goodwill exists to a system of regulation that is fair and reasonable. The Trade has within it a great number of responsible individuals who know their industry and who want to see their customers adequately protected. Unlike multinationals, these companies, like the one I represent, are based in Ireland, pay their taxes in Ireland, train and employ professional staff locally and are always available to our customers.

Ultimately the decision rests with the Commission for Aviation Regulation in terms of what to present to Government. This is an important time that does not come along too often. The policy choices are complex when it comes to addressing consumer needs. The challenges from Industry participants can also be challenging.

I am available to discuss this submission and look forward to further feedback as the process continues. I wish the CAR well in its deliberations.

Jim Vaughan
Village Travel Limited

21. Keller Travel

Having been present at the CAR presentation and ITAA conference in Porto, I would like to make the following points. Many have been raised by my travel agent colleagues in the above forums but feel that they must be re-iterated

A quick fix is being sought by CAR following the collapse of LCH and the depletion that this has had on the TPF - in essence the Travel Agents in Ireland who supply less than 20% of the travel public with their travel arrangements and who are the only body that has protection is being 'put to the sword'.

Someone, somewhere made a terrible blunder in allowing LCH the bond which they held with CAR. It is imperative that going forward that large companies such as LCH with multiple locations must not be allowed to be under bonded in different markets in future.

Take out the collapse of LCH & Failte Travel - & the travel agent is over bonded at 4%.

You are presuming that there will be another major collapse such as LCH - the average collapse has been in the region of €350K, so the TPF could take two similar hits in one year - this is doubtful to happen, the Travel Industry is in much fitter & leaner position.

As we hold onto customers money for shorter periods and pay instantly for many travel services, money is more protected and therefore it would be not of any benefit to change the bonding arrangements to 8% of turnover excluding non-licenceable & airline turnover.

It's imperative that CAR understands that 'one size does not fit all' - while we are Travel Agents & Tour Operators in name, we all have different business models - Corporate / Retail / OLT's / Niche Products & Markets - we feel that CAR need's to understand each agents 'Business' in more detail before making judgement -for example 60% of our business is directed at our Specialized Family mobile home product to France & Spain where we wholly own & manage 350 accommodation units.

With the pending arrival of the PTD & the recent collapse of Monarch, it's now more imperative that ALL TRAVELLERS contribute to replenishing the TPF - while we understand that this needs legislation to be passed & decision on how it's collected, it seems the only fair way moving forward.

In conclusion - leave the current bond in place but make provision for the general traveling public to replenish the TPF

Kind Regards

PEARSE KELLER
Managing Director
KELLER TRAVEL LTD.

22. Liberty Travel

I attended the meeting held in Dublin earlier this month and left feeling that we, the smaller operators are facing a very unfair position with regard to trading in the current environment. It is totally unfair to ask us to increase our bond levels, especially when a large amount of our turnover includes flights which are pre-paid at the time of booking.

We still find it incredible that Low Cost Holidays were permitted to trade with such a small bond in place compared to the claims against them when they collapsed. I do agree with one of the participants at that meeting that there should be great emphasis on risk assessment within the department, especially with regard to large companies operating outside of the state. I realise that this would take a huge amount of man hours and that it would be difficult to police but companies cannot be allowed to trade without the appropriate protection in place.

We all agree that the current legislation is outdated and surely, we should all lobby the government for change and update as a matter of urgency.

I feel that all passengers should pay a levy as a small premium to protect themselves against risk of collapse or failure and to ensure that repatriation options are in place. This cannot be left to the high street agents and tour operators to collect (as we are so few in numbers). The levy should be part of the airline tax and should be collected that way at source.

Yours sincerely,

Carolyn Davis
Director

23. Limerick Travel Group

In response to your request for feed-back on operational response to Travel Trade Licencing I would like to make the following observations.

The review is long overdue.

It would be helpful if the window for applications were widened to help processing. When the Commission was established KPI's were merely three letters of the alphabet.!

There is a serious gap in the visit to premises- by my guess it will only happen every 10 years. Meeting Agents face to face is a good measure of getting first hand knowledge of whats happening out on the ground.

In fact I would estimate that it could eliminate hiring Consultants to do work which Commission personnel could do much better.

There should be regular general meetings with Agents to listen to their views, particularly as we operate in a fast changing market-place.

The large number of operators trading via the internet and often totally outside the Licencing regime undermines the good name of our trade.

We dont see any signs of activity in this area by CAR, which would show the consumer the benefit of Bonding. In fact this is an area where CAR could gain valuable PR and offer further assurance to the travelling public.

With the abolition of many commissions the trade is not in a position to take on further costs to trade. CAR must recognise this and arrange its own business to work with the trade at large and also fulfil their mission.

As a company that has been compliant since our foundation 46 years ago, we find it a bit much to be asked to increase cover for failures over companies who were trading under the eyes of CAR and drained its reserves which we among others helped to establish.

Tony Brazil,

Limerick Travel Group

24. Midland Travel

In relation to the proposed Consumer Protection Measures that were outlined in your email we would strongly be opposed to an increase of the already burdensome and outdated bonding system.

Placing the onus on travel agencies to provide bonding while ignoring the larger travel markets responsibilities already puts agencies at a competitive disadvantage. Increasing those bonds while continuing to ignore the larger problem will serve only to further increase our disadvantage in the market place.

We agree with the Travel Centres document submitted that the current legislation is no longer fit for the purpose it was originally intended but that any changes should be made after the implementation on the new Package Travel Directive next year.

Sincerely

Stephen Bernie
Director
Midland Travel

25. O'Callaghan Travel

In response to the above consultation document that we received we wish to make the following submissions as to why the various options outlined within the consultation document are not relevant. We feel the current legislation no longer fits the purpose and this should be scrapped and replaced with a new structure whereby consumers contribute towards their own financial protection. We feel the current legislation penalizes small companies with bond and licensing requirements while ignoring the application of similar economic constraints on larger companies and airlines even though such companies are now acting as travel agents and providing similar products and services.

The percentage booking through travel agents is attributed to less than 20% of current international travel arrangements but yet the current legislation does not provide any degree of protection for the remaining 80% especially those that book online with companies located outside the state/EU jurisdiction. Therefore we feel the current legislation is no longer fit for purpose.

Option E in the documentation suggests doubling current bond levels from 4% to 8% for travel agents. We feel this is quite a significant increase. We feel this may send a negative message to insurance companies offering bond cover suggesting the risk factor has increased.

Consumers currently accept that they must pay insurance premiums on most things for example house insurance/car insurance/gadget insurance/ medical cover, therefore it seems appropriate that consumers should pay a small sum towards this type of insurance. We propose introducing a €2 levy to build up the fund then reducing down this fee after target is reached on all passengers departing from Ireland regardless of booking method. We strongly feel that airlines/bed banks should be included in this scheme so that all consumers are covered and it is a level playing field.

Can you please clarify what the short term plan is, as some of the above proposals will take time/legislation and obviously with the package holiday directive changing next year nothing is likely to change until after this. With the need to increase the traveller protection fund is it fair to say that the tour operators / travel agents will carry this burden in the interim anyway?

Yours sincerely

Maria Neary
Majella Babington
O'Callaghan Travel

26. O'Hanrahan Travel

Having listened to all the arguments, attended several meetings and given thought to all of the proposals put forward from all sides over recent months on the topic of Bonding of the Irish Travel Trade I am still at odds with what your department are actually trying to achieve. Are we purely trying to replenish the depleted TPF or are we trying to provide the travelling public with protection against future collapse within the travel industry? Protection that will either take them home from abroad or refund them their monies if they have future travel booked with a collapsed company.

Without wanting to repeat what several bodies have stated in previous submissions on behalf of Travel Agents and Tour operators the very title "Bonding of the Irish Travel Trade Industry" is flawed. As you are aware somewhere between 12-15% of travel from this Island is booked via an Irish Travel Agent/Tour Operator so we are NOT talking about Bonding of the Irish Travel Trade Industry because there is a whole raft of companies who are not bonded and a large proportion of travellers who travel without any protection at all. This begs the question does the travelling public give a hoot if their travel is protected or not but I'd suggest that most don't even understand or know if their travel is bonded. You can be sure if one of the airlines who currently sell linked holiday packages in Ireland were to go to the wall, similar to the recent collapse of Monarch airline in the UK there would be an almighty outcry for Government to get their clients home and refund those that were due to travel and were out of pocket.

I am not suggesting for a minute that Irish Travel Agents and Tour operators not be bonded, it is imperative that our customers have an adequate level of protection in case of collapse or failure. Since the current bonding scheme was put in place back in 1986 the methods by which the Irish public book their travel as changed immeasurably. This change MUST be reflected in any future bonding arrangement and provide cover for ALL of the travelling public not just those that book through Travel Agents and Tour Operators. To suggest otherwise is not providing the vast majority of the travelling public with any level of protection in the case of collapse. It also makes the whole bonding scheme anti-competitive as small family run agencies like my own are left with the financial burden of having to bond and in many cases over bond my business while larger airlines, on-line agencies and bed banks trade in the same environment un-bonded. Where is the logic and fairness in that I ask?

The current scheme as it stands has served its purpose very well to date, bar the two major collapses of Failte Travel and Low Cost Holidays. The average draw on the TPF since its introduction is in the region of €395,000 excluding the two major collapses. So given that the current TPF level is €1.8m, based on the law of averages, there is enough funds to cover two collapses. It remains a mystery to me how, given the level of scrutiny the Commission places on my business annually, that a company such as Low Cost Holidays can have such a huge draw on the TPF. Who granted LCH a licence and who was monitoring their performance throughout the year as my agencies performance is monitored? I would hope that such a large collapse would not arise again and lessons have been learned by the LCH collapse. The truth will always come out eventually.

I don't have any concrete solution to the current bonding issue as I feel any of the suggestions put forward to date do not address the issue of bonding ALL of the travel public, only those that book through Travel Agents and Tour Operators. I also think it would be folly to introduce any new scheme

until we see how the Government are going to implement the impending Package Travel Directive next year. To do anything with the bonding in the meantime would be only putting a plaster on a scheme that has served us well to date. If the sole purpose of the current discussion is to increase the level of the TPF there are several ways in which this could be done without overburdening an already depleted Travel Agency/Tour Operator sector. I alluded earlier to the fact that most of the travelling public do not know if they are bonded for their travel when booked either with a Travel Agent, Tour Operator, Airline or bed bank. If the travelling public were charged a nominal fee/premium for "BONDING" their travel from Ireland by ALL sectors of the industry the TPF would soon be replenished and the public would be much more aware of their level of cover in case of a collapse. Unless the public are charged for something they see little value in it so it would highlight the value of being covered to a currently obviously travelling public. Alternatively you currently have €1.8m in the fund, if you were to use say €800k to secure some sort of insurance policy against a major collapse and have the remaining €1m as excess on such an insurance policy what insurance company would turn you down. Given that the average collapse (bar the two big ones) is only €395k and most collapses are covered by each company's current bonding level it's a gift to any insurance company given each agency/tour operator has a bond plus the level of excess you can provide them with after their bond is used.

Thanks for taking the time to talk to the trade, I do hope you reach a fair and equitable solution for us and the travelling public. I look forward to the next step.

Yours sincerely,

Mark Clifford
Managing Director.
OHanrahan Travel Ltd.

27. OLeary Travel

For what its worth, in brief, I believe the "net" of entities covered by bonding needs to be much wider than it currently is, the demise of Monarch airlines in the UK is a prime example of what can go wrong. Bedbanks also collapse frequently, 1800 hotels, Chase Travel, Lowcost etc etc. All of these collapses cost the consumer money, saying the legislation does not allow for Airlines & Bedbanks to be bonded is not good enough- change the legislation. It is unfair in the extreme to burden the small number of Travel Agent's and Tour Operators with additional bonds when other players in the market are exempt.

Best of luck with it.

Regards and thanks

Liam OLeary

28. Platinum Travel

I am writing to you in relation to the above document that was sent to the Travel Trade on the 24th August 2017.

We are very concerned here in Platinum Travel about the proposed changes to the Licensing and bonding scheme particularly ahead of the new EU Package Travel Directive that is coming into place in 2018.

The current legislation, we do feel, needs a complete overhaul and needs to be entirely re-vamped to suit current consumer trends and requirements. The legislation pre-dates the internet and since its implementation 36 years ago, The Irish travel consumer's buying habits & trends have changed dramatically.

However, while we do want the legislation abolished and re-drafted, we do believe it is very necessary to wait until we see how the Irish Government plan to access and implement the new EU Package Directive first before any changes are made.

The proposed increase in bonding charges would have a huge detrimental affect on our business. This coming on top the abolishment of our ability to pass on credit card charges from January, will massively affect our already extremely tight margin.

We would be very grateful for your consideration in delaying these changes until after the government has addressed the new EU directive in 2018.

Your sincerely

Ciara Foley
Managing Director

29. Ryanair

I refer to CAR's paper 9/2017.

We note that the soon-to-be-implemented Package Travel Directive ("PTD") is excluded from the scope of this consultation, and that CAR is conducting a simultaneous consultation in relation to the transposition of the PTO. Ryanair is engaging in the latter, and our primary position is as set out in our submissions in that consultation.

Without prejudice to this position, CAR should ensure that any bonding levels that individual tour operators and travel agents are required to satisfy in order to receive a licence be based on a thorough analysis of the risk of bankruptcy of the individual tour operator / travel agent. This would subject each tour operator/ travel agent to individualised bonding levels.

In addition, as any levy on passengers in order to fund the Travellers' Protection Fund would damage passenger growth, and would in effect subsidise the costs of tour operators and travel agents, CAR should not introduce such levies.

Yours sincerely,

Matthew Krasa
Manager – EU & Competition Law

30. Society Travel

We feel it's not just Agents and Tour Operators who should be paying for Bonding Protection

We know that there are groups of public booking friends to various trips and charging them a fee to do so, So they are really the same as an unlicensed Agent, but pay nothing.

We feel all websites should introduce a SMALL BONDING FEE, that All Public booking online have to click and pay a Bonding Fee To proceed with a booking. That would bring in huge Revenue to you for all over protection, as you know Agents cannot open Their door without a Licence, but my next door neighbour can book a ski group of friend charge them extra and get herself a Free trip and if Companies go out of Business, she takes no responsibility.

The Tour Operators, Airlines, Bed Banks etc., have to charge the Public, as it's not fair on Agents to take all the hits. And the Public can follow an Airline, Tour Operator etc, but paying nothing for their own protection for booking online.

We feel.

1. No change to Existing Bonding for Travel Agencies.
2. Current Legislation was conceived in 1981 when All Airlines Gave Agents huge commissions, nowadays there is no Commission.
3. Airlines should pay towards Bonding.
4. Bed Banks must pay towards Bonding.
5. Commission For Aviation must Ensure 100% supervision of Companies applying for Bonding
6. The Public must pay towards their own bonding when booking online at Least Euro 5.00 per person per booking, they pay to have Insurance on all Other Items, PET COVER, House, Computers, Car, so why not pay Insurance Bond for such an expensive item as Travel, when you look at value of a Longhaul Holiday it can cost as much as a Brand New Car. Offer Business Travellers an Annual Multi Trip Bond.
7. Certain items paid to Travel Agencies, Such as Visas, Passport Applications, Insurance, Boarding Pass fees, should not form part of Turnover.
8. At least 80 per cent book online, why must Agency carry the Caddy?
9. Most Agencies cannot afford any increase in Bonding, thus it will put Agencies out of Business, which will mean Less Agencies, and Higher Bonding For Agents that Survive.
10. The Public want to be Bonded and feel Secure when travelling Abroad, that is why a certain Amount use Travel Agencies they even tell us that is why they book with us. So why are You Afraid to tell the people booking online that they must pay for Bonding they will have no issue with it.

We anxiously await final outcome without delay and before January when Peak season Kicks in.

Thank You.

Geraldine Dolan
Society Travel

31. The Travel Broker

In response to your request for consultation on Travel Trade Consumer Protection I am at a loss to understand why valuable time and resources are being spent conducting a review of consumer protection which covers only an estimated 15-20% of travellers when the clear intention of the original legislation was to provide protection for the vast majority of the travelling public. When the legislation was enacted approx 90% of the travelling public were covered as it was only possible to book travel with a Travel Agent or Tour Operator or a flight direct with an Airline. Easy accessibility to all kinds of travel services on the Internet has totally changed this landscape and so consumer protection measures need to change too.

Whilst a consultation is welcome, I am at a loss to understand why you are seeking to make revisions to the travel trade consumer protection measures, that are not aligned to one of the most significant changes to the regulatory regime, namely the implementation of the new Package Travel Directive, which is due to become law in less than four months. Over the past ten years representations have been made by ITAA and individual Travel Agents to have this legislation and the protection it affords consumers reviewed, but we have consistently been advised that an appropriate review would be conducted once the new Package Holiday Directive was issued.

Now that the implementation of the Package Holiday Directive is imminent, why is the long promised comprehensive review not being carried out? The previous 'Consultation with stakeholders on possible changes to the travel-trade legislation' conducted ten years ago yielded no results and was therefore a complete waste of time and energy. This should not be repeated. It is time for a proper and comprehensive review.

Please see my responses to your consultation questions below.

Yours sincerely,

Clare Dunne
Managing Director

1. Are there material developments in the market that have been ignored that are relevant when thinking about the effectiveness and efficiency of the current travel trade protection scheme?

Yes. The entire landscape of travel has changed. The original legislation was enacted before The Internet and Google and Smart Phones totally changed the way travel is researched and booked. The current scheme covers only 15- 20% of the travelling public. The original scheme covered 80-90%. This is indeed a significant material development. It is also imperative that the current travel trade protection measures are reconfigured to be aligned with the financial security requirements of the new PTO.

2. Do you agree with the finding that the current scheme is not effective in protecting consumers?

As stated in the Europe economics report

"the current scheme has been effective: consumers who have bought packages covered by the current regime from licensed and bonded Irish travel agents or tour operators have enjoyed financial protection." However as the scheme no longer covers the vast majority of travellers it cannot be deemed to be effective. The recent collapse of Monarch surely clearly demonstrates this point.

If we accept that travellers need protection surely this applies to all travellers? Why should travellers who book their holidays with airlines or bed banks not be protected? The easiest and fairest way to achieve this is by way of a small levy per passenger regardless of how they make their booking. This would very quickly replenish the Travellers Protection fund which could then be suspended until it again needs to be replenished. In the meantime while waiting for the fund to build up to an acceptable level an insurance bond could be purchased to provide cover for the interim period. This solution is by far the fairest and most equitable. It achieves what the original legislation set out to do and does not penalise or indeed endanger the livelihoods of the remaining compliant Travel Agents of Ireland who have survived so many different challenges over the past 35 years since the 1982 Act was passed.

3. Do you agree with the finding that the scope to reduce the costs of the current scheme while maintaining the current level of consumer protection is limited?

This question cannot elicit a useful answer. The scope of the review is inadequate and a proper and comprehensive review of the entire legislation should instead be undertaken. The implementation of a levy per passenger would reduce the costs of financial protection and provide cover for all travellers. This would require a proper review and enactment of new and appropriate legislation as has long been promised.

4. Do you agree that to be effective, the scheme needs to be designed with sufficient contingency to be able to meet all claims in full in the event that there are two collapses in a single year that give rise to the same level of claims as the two largest collapses in the history of the scheme? If not, what criteria would you propose?

No. Excluding the two largest collapses the average collapse has generated claims of only 3%. It seems extremely unfair and excessive to impose a levy and therefore penalise all properly operated and totally compliant travel agents in order to design sufficient contingency for 'Out of the ordinary' collapses. Surely it would be a far more sensible approach to guard against the recurrence of this by:

- 1) Ensuring bonding levels are accurate and properly cover the amount of licensable turnover covered under the scheme
- 2) Taking out an insurance bond to cover 'Out of the ordinary' collapses

5. Are there other reforms that you think should have been considered? How would these reforms ensure that all consumers protected enjoy full financial protection?

Yes, as set out above, the long promised complete review of the travel trade protection scheme to all of the travelling public, should have been considered and reforms aligned with the new PTO. Failure to address this is a waste of public money and resources.

6. Which of the reforms do you think the Commission should pursue, if we conclude that the current scheme needs changing? Why?

As set out above a complete review of the travel trade legislation and travel protection scheme needs to be undertaken to consider the myriad changes which have affected our industry. This should indeed include analysis of licensable turnover as huge changes in the way business is conducted now has indeed completely altered the risk landscape and therefore much turnover which is currently included in licensable turnover does not in fact pose any risk

- 1) Low Cost Airline bookings - paid for at time of booking
- 2) Corporate travel - paid clients to the agent after travel so their money is never at risk
- 3) Tour Operator Packages which are already bonded by the Tour Operator so do not also need to be protected by a Travel Agent bond.

I do not accept the premise that the remaining licensable turnover would then become a higher risk and so the bonding level should rise to 8%. Removing 'No risk' turnover does not increase the risk of the remaining turnover.

As the TPF is only drawn on where the bond held by the failed licence holder is insufficient, correct bonding levels in association with an appropriate insurance policy should be sufficient.

32. Topflight Travel Group and Sunway Travel

Background Note re summary of our businesses

The **Topflight Travel Group** is an Irish-owned and highly successful family-run business operating in the Irish market. In the Irish market, the company is a leader for quality holidays to both European and Worldwide destinations. Within the European destination portfolio, Topflight are recognised and renowned as Ireland's Italian Specialist.

Incorporating Topflight, Directski.com and Topflight for Schools, The Topflight Travel Group are also one of the leading ski holiday companies in Ireland and this has been acknowledged with numerous travel industry awards. The company is also recognised for their leading-edge use of technology to deliver an exceptional online and in-resort service to their customers.

The Topflight office is home to over 60 full-time employees and is located in the heart of Dublin's Italian quarter.

Sunway Travel is an Irish owned and family-run multi award winning tour operator with over 51 years in business. Sunway offer holidays to over 70 destinations worldwide including European Summer & Winter Sun, USA & Canada, Cruise, Club Med, and Lapland.

Sunway Travel employs over 60 staff and is located in Dun Laoghaire, Co. Dublin.

Travellers Protection Fund

Following your Information Meeting at the Carlton Hotel on the 10th of October, and your request for feedback, we would like to submit our views.

The Tour Operators and Travel Agents Act 1982 and the Traveller's Protection Fund (TPF) was brought into being by circumstances that existed in a bygone era, before low cost airlines, the internet or mobile phones existed and in the year where the first Commodore 64-8 byte computer was sold and Charles Mitchell was the regular news reader on RTE.

It was an era where almost all Irish holidaymakers booked their annual holiday through a Travel Agent, who in turn booked those clients through one of the many Tour Operators who existed at that time. Tour Operators were responsible for the travel arrangements and financial protection of almost 100% of the trips made by Irish holidaymakers.

We don't think that anyone would disagree that the world has completely changed since then and nothing highlights this more than the manner in which Irish holidaymakers choose to make their holiday arrangements.

Figures in your own research indicate that now, only 15% of holidaymakers choose the financial protection of booking with a Travel Agent or Tour Operator. Tour Operators are now responsible for carrying just 4% - 5% of Irish holidaymakers and travel agents now compete directly with Tour Operators.

Although the world has changed, what has not changed, or kept pace, is the management by Government to ensure full financial protection for all Irish holidaymakers as envisaged in the 1982 Act. All efforts including those of the Commission for Aviation Regulation should be directed and focused on the new Package Travel Directive, due to be implemented in January 2018, only a few short weeks from now.

Actions taken in the meantime that would unfairly penalise or burden further, those small number of remaining Tour Operators who have managed their businesses properly, worked hard to survive the recession, whilst at the same time taking good care of those Irish holidaymakers, who put their trust in them, is just not acceptable.

That these penalties would be brought about as a result of the mismanagement or fraudulent behaviour of Low Cost Holidays under their CAR Travel Agency license would be deeply unjust, and would make an already unlevel playing field more unfair.

We would suggest that whilst waiting for implementation of the new EU Directive (PTD 2), CAR should work to identify those companies who may be most at risk of failure, being under bonded and could be prone to making a major hit on the TPF. CAR should impose regulations on such companies that would pre-empt a damaging call on the fund. In our view those companies most at risk would include companies operating as travel agents who are corporately intertwined with airlines or bed banks (who in themselves have no bonding requirement) or are registered in other jurisdictions.

Furthermore, to act as a deterrent to further mistrading, we would ask that CAR use all the legislative tools available to it to pursue and penalise individuals and auditors who blatantly breach existing legislation.

Current Level of Tour Operator Bonding

In general terms we do not accept that there is any need to increase tour operator bonds. The average call on tour operator bonds over the last 10 years suggests that the correct level of bonding required is closer to 6%, leading to the conclusion that tour operators are, in the main, already over-bonded. Increasing the bond percentage would serve no useful purpose and would put unnecessary cost on our businesses and place us at a further commercial disadvantage to unregulated travel companies.

Re; Possible Reform Options

Options A and B are completely unsustainable and would result in tour operators exiting the tour operating business.

Option D and E are unnecessary and unviable and impose an unacceptable cost to our business.

Option C The first part leaves the current bonding percentages unchanged which would be acceptable to us, albeit that it appears that tour operators are already over bonded.

We understand the Commission's concerns and need to "top up" the fund and to safeguard against any calls on the fund that it may not be in a position to meet. In this respect we would urge the Commission to secure an insurance bond to cover off this requirement. we noted from Adrian Corcoran's presentation that you have expressions of interest from at least one insurance company. We also understand that Travel & General would be interested in pitching for this business.

Summary and Suggestions

- Options A, B, D & E are not options that would work for us.
- The retention of the bonding levels in option C is acceptable.
- The Commission should secure an insurance bond on a temporary basis to protect the against major calls on the TPF.
- The Commission should, without delay identify those companies who are most at risk of failure, being under bonded and could be prone to making a major hit on the TPF and impose regulations on such companies that would pre-empt a damaging reduction to the fund.
- Furthermore, to act as a deterrent to future blatant mistrading we would ask that CAR should use all the legislative tools available to it to pursue and penalise individuals and auditors who blatantly breach existing legislation.

The **EU Directive 2015/2302 on Package Travel and Linked Travel Arrangements** will be coming into force on the 1st January, 2018. Any changes to the travel trade consumer protection measures should encompass the new EU Package Travel Directive.

We are supportive of the industry proposals to ensure full consumer protection by way of a small levy on all departures, including scheduled airlines and ferries.

The recent collapse of Monarch Airlines leaving customers without protection, the increase in the vertical integration of airlines, holiday operators and bed banks and the race to be the “cheapest” on the market regardless of the duty of care to customers will result in further failures and more Irish travellers being left stranded. This matter must be

urgently addressed by the minister and the commission and reforms brought forward.

We would be pleased to meet with you at any time to discuss our views further if required.

Yours Sincerely

Tony Collins Chairman
Topflight Travel Group

Philip Airey Director
Sunway Travel

33. Tour America

Here are my comments.

1. The customer has no idea what it means to licensed and bonded, I did a survey with 200 women at a Going For Growth event recently and asked them to give me a show of hands if they knew what it meant. So I think as an industry we are incredibly weak with this message. The customer doesn't care and will book with anyone.
2. I recently came back from a cycling holiday which cost me more than a package to the USA. Hotels, transfer etc were organised, this company do large groups every year, and they are not licensed and bonded. There are many companies who operate school tours etc whereby their is no cover for licence.
3. The airlines now are tour operators selling more packages than any travel agent or tour operator.
4. What if an airline goes bust, will it be expected of the ITAA members to cover and assist clients?
5. What Ryanair have done to their customers recently is totally unacceptable, they have clearly broke every single rule.

I truly believe it is unfair that we as a small group have to carry the cost of this, when so many major organisations who clearly sell more packages than small travel agents and really small tour operators.

There is no marketing and branding of this service that is provided.

I am sorry I can't be there, but would really appreciate if you could bring up my points.

Kind Regards
Mary McKenna

ATTACHMENT

Published on Wednesday, October 4, 2017

Travel industry outraged at £250 per head bill for Monarch rescue flights

The government is asking tour operators and travel agents who booked passengers on Monarch flights to stump up £250 per head to bring their clients back home following the company's collapse at the weekend.

So far, the government has repatriated more than 23,000 of the 110,000 passengers on a series of flights, having leased aircraft from Qatar Airways as part of the rescue mission, which is expected to cost around £60 million.

As only a small percentage of the 110,000 passengers stranded abroad at the time of Monarch's collapse were covered by the company's ATOL licence, the government has said it expects credit card companies, tour operators and travel agents to share the cost.

Passengers are being handed forms prior to boarding, asking them to state the company they booked with in order for the government to bill the relevant travel agent or tour operator.

However, some tour operators say the cost of £250 per passenger is over the top, given that it is possible to buy flights from popular European airports to the UK for around £100.

"It's just outrageous for the government to have stepped in like this and expect us to pay," one industry source told TravelMole. "We have to pay for ATOL protection and now we have to pay again to protect those who weren't covered by the ATOL."

Another source said "We don't understand why the government rushed to bring in Qatar Airways aircraft when there is a huge amount of aircraft capacity in the UK which could have been used instead to bring passengers home. Charging £250 for a single flight seems totally unrealistic."

AITO said: "The government understandably rushed at the problem, but if they'd talked to ABTA and talked to AITO, they might have come up with a better solution in collaboration with the industry, which is well used to dealing with this sort of crisis."

AITO also pointed out that it will cost the government a considerable sum to process all of the passenger forms, assuming passengers fill them in. "This doesn't appear on the face of it to have been well thought through, which is disappointing from an industry perspective," added a spokesperson.

AITO chairman Derek Moore added: "Given that it was the government itself that chose not to extend ATOL cover to flight only passengers, despite the travel industry asking it to do so, the government should pay."

34. Travel Advisors

After attending the meeting at Dublin Airport yesterday, I feel that for Travel Agents to bail out or affectively fix the issue caused mainly by LowCost collapse is extremely unfair and not justified. To increase our bonds amounts would be unacceptable option as it would increase cost for the smaller agents but most worrying is that who is to say that us agents with Insurance Bonds, that the underwriter decides that double-bonds the risk/exposure is too high and they decide not to furnish agents with bonds. This action would close many agents due to no fault of their own.

The only way to fix this issue, is to have legislation changed and bring everyone in the travel business i.e. Airlines, bedbanks etc. to pay the same, whilst I accept it doesn't fix it in the short term, I feel hitting the travel agents is wrong.

In short term, run the current system as it stands and if another big collapse happens let the government bail the commission out, after all they there one's dragging the legislation change along.

You're sincerely

Mr. Andrew Lynch
Director
Travel Advisors Ltd.

35. Travel and General Insurance Services Limited

Travel & General Insurance Services Limited (t&g) is pleased to provide a reply to your Commission Paper 8/2017 dated 24 August 2017. We have reviewed the document and would comment on the list of consultation questions as follows:

1. Are there material developments in the market that have been ignored that are relevant when thinking about the effectiveness and efficiency of the current travel trade protection scheme?

No, all the material developments requiring consideration have been included in the consultation in t&g's opinion.

2. Do you agree with the finding that the current scheme is not effective in protecting consumers?

We agree the current scheme is not effective. It may be considered adequate for attritional claims but it is not sufficient to cope with a catastrophic loss against the Travellers Protection Fund (TPF). The claims and repatriation fund managed by the Air Travel Trust for UK ATOL holders and financed through the APC levy is also not thought to be sufficient. The CAA manages this risk with an additional layer of protection through a shortfall insurance policy.

3. Do you agree with the finding that the scope to reduce the costs of the current scheme while maintaining the current level of consumer protection is limited?

It is t&g's opinion that the amount paid by travel agents and tour operators for bonding does not reflect the true cost of financial protection. Charging an on-going levy in addition to bonding would, in our opinion, more closely match the cost of protecting the annual risk. However, t&g recognises that large one off levy payments may have adverse commercial impacts on the industry.

4. Do you agree that to be effective, the scheme needs to be designed with sufficient contingency to be able to meet all claims in full in the event that there are two collapses in a single year that give rise to the same level of claims as the two largest collapses in the history of the scheme? If not, what criteria would you propose?

t&g believes that although the experience in 2016 was unprecedented, the Regulator, in addition to planning for claims of the same magnitude, should also factor for the potential for other attritional losses. We would suggest the Regulator considers an additional contingency fund or alternative, such as a line of bank credit or a shortfall insurance policy.

5. Are there other reforms that you think should have been considered? How would these reforms ensure all consumers protected enjoy full financial protection?

t&g supports maintaining the current bonding levels of 4% and 10% for the industry. This is in line with CAR's 2008 review, which showed that bonding

requirements for 3% and 10% for travel agents and tour operators would, on average, be sufficient to cover claims. We would recommend that CAR introduces a scheme where bonding levels could be increased above the minimum where applicable, based on a set of criteria. This focuses cost increases in consumer protection onto the riskier travel agents or tour operators as well as providing additional protection for the TPF. t&g recommends the TPF remains but is supported by a line of bank credit or an insurance policy to cover the risk of failures that far exceed the original bond, such as experienced in 2016.

6. Which of the reforms do you think the Commission should pursue, if we conclude that the current scheme needs changing? Why?

t&g supports option C for the following reasons.

- As noted in the response to question 5, t&g supports maintaining the current bonding levels of 4% and 10% for the industry, this is in line with CAR's 2008 review, which showed that bonding requirements for 3% and 10% for travel agents and tour operators would, on average, be sufficient to cover claims. We would recommend that CAR introduces a scheme where bonding levels could be increased above the minimum where applicable, based on a set of criteria. This focuses any cost increases in consumer protection onto the riskier travel agents or tour operators as well as providing additional protection for the TPF.
- t&g recognises the current level of the TPF means it could not meet the cost of claims experienced in 2016 and believes it is therefore necessary to collect a one-off levy payment.
- t&g supports setting an annual levy to reduce the requirement for one-off levy payments in the future. We believe commercially this would be preferred by travel agents and tour operators managing their operating costs.

I trust that the above responses are helpful and will be pleased to offer any additional comment or clarification should CAR require.

Yours sincerely

Richard Watson
Managing Director

36. Travel Centres

In response to the above consultation document that was circulated to members of the travel trade on August 24th last, I wish, on behalf of our affiliated members, to make the following submission as to why the various options outlined within that consultation document are neither appropriate nor relevant, given the trading realities that have existed in the Irish market for some time now.

Because of the relative proximity of the implementation of the new Package Travel Directive in 2018, there should be no changes to the existing legislation regarding licensing and bonding and certainly no attempt to double existing bonding levels until we see how the government plan to both interpret and implement that new legislation. It would be inappropriate to waste valuable time and resources attempting to implement changes to the current regime when such actions could be superseded and rendered irrelevant in a matter of months' time. That detail aside, it is our contention that the current legislation should be scrapped and replaced by a completely new structure whereby consumers themselves contribute towards their own financial protection where international travel arrangements are concerned and for the following compelling reasons:

1. The current legislation was conceived in response to a specific event which occurred in 1981 with the collapse of Bray Travel and thus the drafting of that legislation was heavily influenced and colored by the context in which that collapse occurred. The various factors that were contributors to that collapse no longer exist or apply and thus the legislation is anachronistic in that regard.
2. The current legislation pre-dates the subsequent development of the consumer-driven Internet and is therefore largely incapable of accounting for the many anomalies which arise nowadays because of the supra-national nature of online commercial transactions.
3. The current legislation is anti-competitive because it penalizes small companies with onerous bonding and licensing requirements whilst ignoring the application of similar economic constraints on larger companies — particularly in the aviation sector — even though such companies behave in the same way as travel agents and provide similar products and services.
4. Various sources attribute just 15-18 percent of current international travel transactions to those booked through travel agents and yet the current legislation does not provide any degree of protection for the remaining 80+ percent — particularly those that book online with companies located outside the jurisdiction of the state/EU. If the *raison detre* for such legislation is to protect the travelling public, then clearly it is no longer fit for purpose, given those statistics.
5. Option E in the consultation document proposes a doubling of current bonding levels from 4% to 8% in the case of travel agents and from 10% to 20% in the case of tour operators. Since many travel agents and tour operators may not currently enjoy the liquidity levels that would enable them to place the necessary bond amounts on escrow, they would be dependent on the insurance or bank markets to secure such bonds on payment of the applicable premiums. Any doubling of bonding requirements would most likely send an extremely negative message to both markets, suggesting that the risk factor had risen and this in turn could result in both insurance companies and financial institutions refusing to provide such bonding cover into the future.
6. Consumers currently accept that they must pay the appropriate insurance premium when they wish to protect themselves against adverse future events in respect of any of the following:

- Their house

- Their car
- Their medical cover
- Their pets
- Their technology devices
- Their concert tickets
- Certain aspects of their travel arrangements

It is therefore anomalous that they aren't expected to protect themselves against the failure or insolvency of their travel supplier(s). Consumers fully understand the concept of risk and therefore in many instances pay an additional insurance premium to insure themselves against such risk. Some of those premiums can amount to thousands per year so it is inconceivable that any consumer would have a problem with paying a proportionate fee/levy/premium, each time they undertake any trip abroad that might require subsequent repatriation — particularly if that premium was costing in the region of a couple of Euro or even less.

At present, thousands of transactions take place online each day in Ireland and it is reasonable to suspect that many of them remain unprotected in the event of the collapse of the commercial entities tasked with delivering those products or services. Size, sector or 'respectability' offer little protection against such failures as customers of the national carrier Malev found to their cost some years ago. Other, similar examples abound such as this morning's announcement regarding Monarch Airlines in the UK which has collapsed, leaving over 110,000 customers stranded overseas and with 300,000 future bookings!

There appears to be an institutional reticence to change the status quo with regards to the current legislation despite the overwhelming documentary evidence that it is no longer fit for purpose. It continues to expose a large percentage of consumers to potential financial loss whilst simultaneously applying punitive costs to small companies whilst providing their much larger competitors with a free pass. The current legislation must be withdrawn and be replaced with a much more equitable and effective model, such as described above.

Sincerely,

Dominic Burke
Managing Director
Travel Centres

37. Travel World

Would you consider reintroducing the PPF fund, which would cover all travellers, irrespective of where/how, they made their travel arrangements.

Would seem punitive to penalise tour ops/travel agents. In light of Monarch going into administration over the week end, I think one should really look at the bigger picture and incorporate all such travellers, whether it is just an airline seat or a holiday package!

Kind regards

Darach Culligan
Managing Director
Travel World

38. Travel Agent

It is my belief that the travel trade scheme (i.e. bonding plus the Travellers' Protection Fund (TPF) does not meet the objective of ensuring consumers are fully protected in the event of future collapses.

Suggestions :

1. Replace the bond with a per person levy €2 to cover travel that includes flights + one other major service
2. Change the bond amount to reflect projected licensable turnover. 0 – 2M 2% / 2M – 3M 3% / 3M – 5M 4% / 5M and over 6%
3. Change the definition of licensable turnover by removing immediate payments to suppliers
4. A collective insurance scheme

Best Regards

Paul Sexton
TravelAgent.ie

39. The Travel Boutique

In response to the consultation document that was circulated to members of the travel trade on August 24th last, I wish to make the following submission as to why the various options outlined within that consultation document are neither appropriate nor relevant, given the trading realities that have existed in the Irish market for some time now.

Because of the relative proximity of the implementation of the new Package Travel Directive in 2018, there should be no changes to the existing legislation regarding licensing and bonding and certainly no attempt to double existing bonding levels until we see how the government plan to both interpret and implement that new legislation. It would be inappropriate to waste valuable time and resources attempting to implement changes to the current regime when such actions could be superseded and rendered irrelevant in a matter of months' time. That detail aside, it is our contention that the current legislation should be scrapped and replaced by a completely new structure whereby consumers themselves contribute towards their own financial protection where international travel arrangements are concerned and for the following compelling reasons:

1. The current legislation was conceived in response to a specific event which occurred in 1981 with the collapse of Bray Travel and thus the drafting of that legislation was heavily influenced and colorized by the context in which that collapse occurred. The various factors that were contributors to that collapse no longer exist or apply and thus the legislation is anachronistic in that regard.
2. The current legislation pre-dates the subsequent development of the consumer-driven Internet and is therefore largely incapable of accounting for the many anomalies which arise nowadays because of the supra-national nature of online commercial transactions.
3. The current legislation is anti-competitive because it penalizes small companies with onerous bonding and licensing requirements whilst ignoring the application of similar economic constraints on larger companies - particularly in the aviation sector - even though such companies behave in the same way as travel agents and provide similar products and services.
4. Various sources attribute just 15-18 percent of current international travel transactions to those booked through travel agents and yet the current legislation does not provide any degree of protection for the remaining 80+ percent - particularly those that book online with companies located outside the jurisdiction of the state/ EU. If the raison detre for such legislation is to protect the travelling public, then clearly it is no longer fit for purpose, given those statistics.
5. Option E in the consultation document proposes a doubling of current bonding levels from 4% to 8% in the case of travel agents and from 10% to 20% in the case of tour operators. Since many travel agents and tour operators may not currently enjoy the liquidity levels that would enable them to place the necessary bond amounts on escrow, they would be dependent on the insurance or bank markets to secure such bonds on payment of the applicable premiums. Any doubling of bonding requirements would most likely send an extremely negative message to both markets, suggesting that the risk factor had risen and this in turn could result in both insurance companies and financial institutions refusing to provide such bonding cover into the future.
6. Consumers currently accept that they must pay the appropriate insurance premium when they wish to protect themselves against adverse future events in respect of any of the following:

- Their house
- Their car
- Their medical cover
- Their pets
- Their technology devices
- Their concert tickets
- Certain aspects of their travel arrangements

It is therefore anomalous that they aren't expected to protect themselves against the failure or insolvency of their travel supplier(s). Consumers fully understand the concept of risk and therefore in many instances pay an additional insurance premium to insure themselves against such risk. Some of those premiums can amount to thousands per year so it is inconceivable that any consumer would have a problem with paying a proportionate fee/levy/premium, each time they undertake any trip abroad that might require subsequent repatriation - particularly if that premium was costing in the region of a couple of Euro or even less.

At present, thousands of transactions take place online each day in Ireland and it is reasonable to suspect that many of them remain unprotected in the event of the collapse of the commercial entities tasked with delivering those products or services. Size, sector or 'respectability' offer little protection against such failures as customers of the national carrier Malev found to their cost some years ago. Other, similar examples abound such as this morning's announcement regarding Monarch Airlines in the UK which has collapsed, leaving over 110,000 customers stranded overseas and with 300,000 future bookings.

There appears to be an institutional reticence to change the status quo with regards to the current legislation despite the overwhelming documentary evidence that it is no longer fit for purpose. It continues to expose a large percentage of consumers to potential financial loss whilst simultaneously applying punitive costs to small companies whilst providing their much larger competitors with a free pass. The current legislation must be withdrawn and be replaced with a much more equitable and effective model, such as described above.

Yours sincerely

Linda Jones Managing
Director
The Travel Boutique

40. Travelsavers Ireland

Following discussions with our members in Ireland, attending the recent Dublin CAR meeting and reviewing the proposal I wanted to submit my feedback.

The Current scheme should be replaced as when this was put in place the business model of travel agencies and tour operators was very different to what it is in 2017.

The proposed options will not work across all agencies as one model does not suit all, agencies differ with corporate and leisure business. Increasing the bond from 4 % - 8% would have a detrimental effect on the leisure agencies and I am sure would have very negative results and it will make it very unattractive to do business for the smaller agencies.

Travel agencies are not in a position to carry these costs and absorb levys ironically to bond consumers who as studies have shown are not even aware on many occasions of what they are actually covered for. This is proven with the increase over the years in online travel business when clients are happy to book direct with overseas operators trading in Ireland and not be bonded at all.

Understandably the fund has decreased and has to be built up to a level that should there be any call on this it will cover what is required . With the collapse of Lowcost and the large call on the fund I think many agents feel this is unfair that they are now been penalised for this.

I think we need as an industry need to work together to make it as fair and a level playing field as possible and with that in mind part of the solution should be with the onus on the consumer. Consumers should be made aware of the liabilities and a fee charged to them on all travel.

Another option / suggestion is to work with an Insurance company that would offer client protection, this could be based on payout with a capped level as with all insurance claims and payouts. Consumers would understand this as they are currently paying insurance in other areas and making claims where they want to be protected against eventualities.

With the implementation of the new Package Travel Directive in 2018, I think any changes to the existing legislation would bring a lot of work for what may be a short period until we see how this will be rolled out and effects there will be on the trade and consumers.

I look forward to working with you on any changes / implementations or suggestions you may have.

Best Regards

Mary King
Country Manager
Travelsavers Ireland

41. Westport Travel

After attending the presentation in Athlone my observations are that there should be no need for a fund if the bonding amount was correct for all licensed Travel agents and Tour operators. If this cannot be done it should be looked at getting the travel insurance to extend to cover schedule airline failure and third party supplier insolvency as the customer pays in the end.

Regards

Jerome Kiely

Westport Travel

42. World Travel

Thanks for the info session on Tuesday and please pass on my thanks to Cathy.

Possibly the most interesting suggestion I heard there was the idea that CAR would have a Risk Assessment function.

WTC sell to c120 licensed agencies in Ireland (as does Club) so we have many years experience in managing the commercial risks and exposures to travel agents.

It's pretty easy to assess the financial stability of these owner managed business and rather than imposing additional layers of reporting on larger agencies who simply will not fail, focus can be put on the actual risks and then action taken by CAR.

Also, through our UK operations we complete the CAA quarterly reviews which are far from complex or onerous. Their methodology breaks down various classes of business according to risk. I'm happy to share real examples of either working experience with you if you think it's worthwhile at any stage in your process.

I make the following observations having read the recent papers and reports.

Market

There is no clear definition of the 'Market'. If the intention is to cover all out-bound travel from Ireland, this process needs to be far wider than the current Irish licensed agencies who probably account for 5% of the actual travel purchased that departs Ireland. The starting position for this consultation appears to be still based on looking at the legacy channels of physical travel agencies and as such is flawed.

Licensable Turnover

The definition of what turnover needs to be bonded has remained unchanged. The calculation of this activity has very little connection to what elements of clients' funds are at risk when a payment is made to the Licenced TA or TO.

- The vast majority of travel purchases are instant purchase with virtually no risk to the Traveller.
- In most cases monies received by credit card will be subject to a chargeback in the event of any agency failure.
- Corporate Clients with credit terms who pay post-travel have almost no risk.
- Transactions between licenced travel agents/operators require to be bonded by both entities which is pointless in terms of consumer protection.

The UK Civil Aviation Authority ATOL scheme is based on definitions that are realistic and provide adequate consumer protection. We should simply copy theirs.

Financial Reviews

There is a requirement for licensed entities to submit Financial Statements post year end in addition to providing financial information as part of the licence renewal process.

There does not appear to be any meaningful assessment of these annual accounts by CAR with the focus being on whether the agency can provide a bond rather than a thorough review of its financial strength.

Again, The UK CAA have a more sophisticated approach to financial reviews (as does IATA).

For example:

- Goodwill is ignored
- Intercompany balances greater than 30 days old are disregarded.

The Europe Economics report seems to concentrate on the bonding comparisons with other markets rather than the wider financial assessment of what constitutes a properly funded and resourced travel business.

The industry operates a mainly cashflow positive model. It is very easy to assess clients' funds received for future travel, payments in respect of that travel versus the free cash in a business at any point in time.

Proposed Options

The Options proposed seem to be geared towards replenishing the TPF. The Regulator should explain as part of this consultation process how the fund has been depleted.

The published information indicates €3.5m in claims in excess of the TA Bond of €80k for the Low Cost Holiday Group. Given the scale of the claims surely this is an issue of Regulation, Compliance and Oversight. The largest single impact on the TPF in its history gets a minor mention on Page 21 of the CAR 2016 annual report.

The idea of a once-off levy penalises compliant well-run businesses for the reckless trading of others and an apparent lack of effective regulation. We need to understand and learn from past mistakes.

Suggestion

A nominal departure levy of say, €0.50c on all Ireland departures is a more fair and effective way of providing for consumers in the event of a licensed entity failing. This could be extended to provide financial protection if Airlines become insolvent (as has happened recently in Europe).

Consumers can be made aware during the booking process that this protection is available through licenced and well-regulated agencies/operators.

It would make sense for Bonding and Licensing to exist separately.

- Blanket bonding via the levy above.
- A strong and vigorous licensing regime in consultation with the Industry.

Thank you for the opportunity to share some opinions.

Regards

Aidan Coghlan
Group Managing Director
World Travel Centre / Selective Travel Management