
Subject: FW: REVIEW OF TRAVEL TRADE LICENSING & BONDING

Attachments: LICENSING & BONDING PAPER.doc

From: JOHN HAYNES

Sent: 23 May 2008 16:50

To: info

Subject: REVIEW OF TRAVEL TRADE LICENSING & BONDING

ATTN: NIALL O CONNOR

Dear Niall

With reference to the above, I am attaching a paper I wrote in October 2005 on the subject which I submitted to the ITAA. At that time I was managing director of Malahide Travel Ltd, an ITAA member.

I sold Malahide Travel last year, and am now a "semi-retired consultant" doing some work for Malahide Travel and other industry partners as well as now being a director of Worldchoice Ireland which, as you probably know is the largest franchisee operation here in Ireland in the retail travel business.

I suspect that the points I raised in October 2005 are still as valid now as they were at that date. Most of the questions raised have never been answered. Some of the thoughts and ideas I expounded then may be of interest to the Review Body hence I am submitting them to you now.

I do hope that this latest Ministerial Review will come up with the changes that are so urgently needed in the travel industry.

With kind regards

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GOVERNMENT LICENSING & BONDING IN TODAY'S CHANGED WORLD OF THE RETAIL TRAVEL AGENT MEMBER OF THE I.T.A.A.

Since the 1982 act it has been a requirement for Retail Travel Agents to distinguish in their annual turnover projections for both licensable turnover and non licensable turnover. This is always a tricky estimate to make due to the vagaries of the travelling public but, an established pattern has evolved for each agent which seems to be acceptable to the licensing authority.

It is a requirement under the Act for each agent to be bonded for a percentage of the projected licensable turnover before being granted a renewal of their license to operate as a Retail Travel Agent each year.

The purpose of the bond is to protect the consumer who may enter into contracts with the agent to provide overseas travel arrangements.

The licensable turnover projections must take into consideration all foreign travel arrangements sold which originate in the Republic of Ireland with the exception that where such travel is purchased through the agent by a customer using his own credit card directly with the supplier of the transport or goods then this need not be bonded for as the agent is merely acting as a conduit for the transaction and not lodging the funds through his own bank account.

There has been one flaw regarding this requirement since its inception which is the requirement of the Tour Operator to be bonded for the same package holiday as well as the Retail Agent through whom the customer may book the travel. The flaw is not so much that there is double bonding – after all the agent could go into receivership before passing on the funds from the client to the Tour Operator, and the Tour Operator could go into receivership before supplying the holiday – but the fact that no other Principals, such as airlines, hotels, car rental companies etc. are required to be either licensed or bonded to operate in the Republic of Ireland and to take in monies from customers either directly or through agents prior to providing the service to the consumer.

Over the last 20 years the travel business has gone through a major change in the way it operates. The Retail Agents are, by and large, no longer compensated by way of commission earnings from the Principals. The agents are now obliged in most cases to charge the consumer a fee for handling their booking. In more and more cases, specifically the airline

business, the reservations and flight ticket issuance (e-tickets) are instantly processed over the internet against the customer's or agent's credit or charge card. Cash turnover is diminishing at an enormous rate each year. In most cases the consumer, using his credit card feels certain assurances regarding travel insurance cover and protection in the event of the supplier of the goods, the agent or operator who accepts the credit card and pays the bank fees associated with the transaction, not "coming up with the goods" or going out of business before his departure date. With e-ticketing transactions, the consumer is being supplied instantly with his transportation document and thereby his only concern now is that the airline will still be in business on the date that he has planned to travel. The status of the agent is no longer of any concern to him.

Why, therefore, should the Retail Travel agent have to be bonded for such transactions when there is no risk to the consumer in the event of the agent going out of business before the client's travel date? This scenario is, of course only licensable where the customer uses an agent but does not use his/her own credit card. The agent uses his Company credit card for such transactions. As the credit card company is not the customer of the agent, they are not in a position to claim from the bond in the event of the agent going into receivership before he settles his monthly credit card account. The risk therefore is taken by the Credit Card Company. In view of the fact that about 70% of all agents airline reservations are now done via the internet, the volume of this business on the agent's own credit/charge card has and is increasing at a huge rate annually.

Many agents no longer handle Corporate Travel business because of the risks and costs involved. However, some of us have been very successful at this end of the business and, in an increasing number of cases are now only taking on new business if the corporate account uses their own credit card or a lodged credit card system. There are however many well established Corporate accounts whose business is on a monthly cash account. In the good "old days" the agent issued BSP travel documents for the customer and sent them out with an invoice well in advance of travel. This has all now changed. Options can no longer be held on flight seats so the consumers now only make their travel plans – in general – a few days before travel and everything is "instant purchase" over the internet. Generally speaking we, the agent have no alternative than to use our own credit/charge card for such transactions and, the same day as the booking is made, the e-ticket is transmitted to the consumer. The consumer has the ticket in his hand within minutes of making the booking. He is not therefore in any risk should his agent go into receivership before he travels. His only concern is in the event that the airline goes wallop.

The agent – in law – must be bonded for this transaction, yet there is no risk whatsoever to the consumer. The only person at risk is, in fact the agent. The agent has passed his company's credit or charge card for the transaction and awaits his monthly statement from the credit/charge card company hoping that his customer, the corporate account settles his bills on a regular monthly basis. Should the Corporate account go into receivership, then the agent is going to be left high and dry singing for his money. The consumer after all has his ticket and may well, in fact, have already used it before the monthly payment falls due to the agent. Should the agent go into receivership before paying his credit card account, then, it is the credit card company that is at risk of losing money, not the consumer.

Why therefore should such transactions need to be bonded and considered as licensable turnover when the act is in place to protect the consumer and not the agent or the credit card company?

Why is the Commission for Aviation regulation so concerned about protecting the consumer on such an unequal basis when, in today's internet environment, the percentage of Irish consumers travelling abroad and purchasing their arrangements via the internet is increasing at alarming proportions each year? The wily consumer who does not use an agent saves considerably in fees. He basically buys the same product but, because he purchases it direct from the Principals he has no consumer protection to ensure he actually gets what he has paid for. We, as agents, are trying to compete with the internet and our Principals who have all but forsaken agents, yet we have to pay for bonding or in many cases double bonding to allow us to trade legally. This is not allowing us agents to compete on the same level pitch as airlines, hotels and tour operators as, it is only our customers who will benefit from our bonding in the event that one of our principals goes out of business before having provided the services purchased to our clients.

Surely a time has now come to re-visit the whole question of bonding and the protection of the consumer. Either de-regulate the whole industry whereby you arrive at a situation of "buyer beware" or perhaps consider passing the onus on to the credit/charge card companies whose services are now being used via agents or the internet for about 90% of travel transactions or directly by the consumer on internet transactions for all manner of travel purchases. A simple annual "bonding" fee could be added to the annual government tax on the issuance of credit cards to create a fund which could be called upon in the event of any consumer not getting what they paid for when purchasing with their credit card their travel, holiday, hotel, car rental etc. This would obviate the need for

agents, tour operators, airlines, non licensed operators or any travel provider from being licensed UNLESS they take cash/cheques from the consumer. In the event that no such purchases are made in any one year then the credit/charge card company could refund such fee to the account holder. A simple solution to a problematic area and, being in the interests of the travelling public, the Government could take the rewards for acting in their interests by protecting them from the evils of travel agents and other suppliers of services to them whom the majority of consumers are not led to believe are an honourable or trustworthy industry anyway.

Under the ITAA bonding system which, I understand is underwritten by an insurance company outside the Republic of Ireland as none operating within the State will take on the liability, it is not possible to have the "privilege" of partaking in and paying an enormous premium to, unless the Company concerned has assets on it's Balance Sheet not less than the amount of the bond required. If this is not the case then the Directors must provide personal guarantees for any shortfall. Such assets or guarantees are to be the "first call" in the event of the agency going into receivership. The second call is the ITAA Retailers Trust Fund which, I understand has assets of several million Euro. The Insurance company to whom we are paying very large premiums in fact, takes little or no risk. To put it simply we agents are being "milked" by them in order to placate the Commission for Aviation Regulation. The travelling public deserve a better deal from the powers of Government regulation. Why should the Licensed Travel Agent be the only whipping boy? What is the C for A.R. doing to protect the unwary consumer who books with the non licensed travel agent/travel organiser or the airline or the foreign tour operator or the internet...basically it seems, nothing. They have negated their duty to the consumer and are getting away with it while the "trusty" agent is caught in a net – a rather tangled one at that – and is told to pay up or get out of the business.

The ITAA needs to fight back and stand up for our cause while it still has some members in business.

John Haynes
Managing Director
Malahide Travel Ltd.,
17 October 2005.