

Guidance Note 10

Advice for Accountants

1 Introduction

- 1.1 This Guidance Note contains advice for accountants acting for Licence holders and applicants. It provides a brief overview of the ATOL system and a description of the framework within which accountants provide confirmations to the CAA.

2 Reporting Definitions

- 2.1 Unless otherwise indicated, the terms in this Guidance Note have the same meaning as those terms in:

- a) the ATOL Regulations (as defined below);
- b) the ATT Regulations (as defined below);
- c) the Trust Deed;
- d) the Licence holder's Licence document; and
- e) Standard Terms of an Air Travel Organiser's Licence.

Those terms together with other terms specific to this Guidance Note are set out below:

'accountant' means (in the case of Licence holders that require an audit of their annual accounts for CAA purposes¹) the auditor that has issued an audit report on the Licence holder's statutory accounts, unless otherwise agreed by the CAA or (in all other cases) a suitably qualified accountant engaged by the Licence holder to report on information provided by the Licence holder to the CAA;

'APC' means ATOL Protection Contribution;

'ATOL' means Air Travel Organiser's Licence;

'ATOL Regulations' means the Civil Aviation (Air Travel Organisers' Licensing) Regulations 1995, as amended;

'ATOL to ATOL' means Licensable transactions constituting seats sold to another Licence holder (whether as a seat only sale or as part of a package) for resale under the buying Licence holder's licence;

'ATT' means Air Travel Trust;

'ATT Regulations' means the Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007;

'departed passenger' means passengers that have actually departed on the first leg of their flight or flight inclusive package or in the case of ATOL to ATOL sales, seats sold to the buying Licence holder, on flights that have departed;

1. This is in reference to CAA's requirement for audited accounts as part of the ATOL application process.

'end user' means a person who either makes use of flight accommodation for travel in person or who, without accepting any payment, provides it to another person who uses that flight accommodation for travel in person;

'flight accommodation' means accommodation for the carriage of a person on a flight by an aircraft (whether or not registered in the UK) in any part of the world;

'gross invoice value' means monies received or expected to be received from an end user before the first sector of their journey is due to commence;

'group' means a parent company and its subsidiaries (as defined in Companies Act 2006 – Section 1159) or where the CAA's financial assessment covers more than one Licence holder (Please note in the specific circumstances of calculating accountants' liability caps (see Annex 2));

'licence' means an Air Travel Organiser's Licence granted by the CAA;

'Licence holder' means a person who holds an Air Travel Organisers' Licence granted by the CAA under the ATOL Regulations;

'Licence holder failure' means a Licence holder has failed if the CAA holds a reasonable belief that: the Licence holder is insolvent; or that the Licence holder cannot or will not be able to meet its obligations to its customers; or will fail to meet in whole or part its obligations to its customers; and an authorised signatory of the CAA has signed a 'Notice of Licence holder's failure' in respect of that Licence holder and has placed a copy of that 'Notice' on the CAA's Register of Failed Licence holders [available on the ATOL website];

'Licensable revenue' means 'revenue' arising from 'Licensable transactions';

'Licensable transaction' means any transaction to provide or to arrange for the provision of one or more flights (with or without ground accommodation or other facilities) in circumstances where this constitutes an activity in respect of which the Licence holder is required to hold a licence i.e. flight only or flight inclusive packages;

'package' means the pre-arranged combination of at least two of the following components when sold or offered for sale at an inclusive price and when the service covers a period of more than twenty-four hours or includes overnight accommodation:

- a) transport;
- b) accommodation;
- c) other tourist services not ancillary to transport or accommodation and accounting for a significant proportion of the package; and:
 - i) the submission of separate accounts for different components shall not cause the arrangements to be other than a package;
 - ii) the fact that a combination is arranged at the request of the consumer and in accordance with his specific instructions (whether modified or not) shall not of itself cause it to be treated as other than pre-arranged.

[This definition of a "package" is in identical terms to that contained in regulation 2 of the Package Travel, Package Holidays and Package Tours Regulations 1992 (Regulation 2(1)).]

'passenger' means an end user as defined in the ATOL Regulations; 'passenger' excludes a child below the age of two who is not allocated a separate seat before boarding the aircraft; or seats sold to another Licence holder (whether as a seat only sale or part of a package);

'payment period' means a period of a quarter or (as the case may be) of a calendar month determined by the CAA to be applicable to a class of Licence holder, or to a Licence holder, in accordance with Regulation 6 of the ATT Regulations;

'Public' means the Public category on a licence which covers Licensable transactions constituting sales to end users;

'revenue' means gross invoice value unless specified otherwise;

'reporting period' means a period of a quarter or (as the case may be) of a calendar month or annual determined by the CAA to be applicable to a class of Licence holder, or to a particular Licence holder;

'Small Business Licence holder' ('SBA') means a person who holds a Small Business ATOL, as defined in the ATT Regulations;

'Third party' means the third-party category on a licence which covers TTA Arrangements constituting sales to end users;

'Trade licence' means a licence that only allows sales to other Licence holders and not to the end user and therefore only has the ATOL to ATOL category;

'a valid ticket' means a ticket which is, without the need for any further payment but otherwise subject to its terms and conditions, valid for travel on the intended flight.

3 Background – The ATOL Scheme

- 3.1 The ATOL Scheme is a statutory system covering most travel providers who sell air travel. Its purpose is to protect the public from losing money or being stranded abroad because the travel provider that they have booked to travel with fails.
- 3.2 The Consumer Protection Group (CPG) of the Civil Aviation Authority (CAA) carries out the function of granting, renewing and administration of Licences, which involves fitness and financial assessments and ongoing monitoring of Licence holders.
- 3.3 If a Licence holder fails, claims for refunds or repatriation costs of its customers are met by the Air Travel Trust Fund (ATTF). The ATTF is funded by the ATOL Protection Contribution (APC) payable by Licence holders for each passenger booking air travel. Some Licence holders are also required to provide a bond, which would be used first, that is before the ATTF, to meet customer claims.
- 3.4 Licences are valid for a period of no more than one year, to either 31 March or 30 September, generally determined by a Licence holder's financial year end. Licences have limits in terms of passengers and related revenue on a departure date basis and by category of business. Licence holders are required to report on various data related to a Licence as the level of business being undertaken has an impact on the number of passengers disrupted by a failure and the cost to the bond and/or ATTF of protecting those customers.
- 3.5 General information on the ATOL scheme can be found on the website using the following link www.atol.org.uk. [Annex 3 provides guidance in terms of what constitutes 'licensable' passengers and revenue]. If you have any doubt about whether or not your client has properly reported and categorised his licensable or non-licensable business, please contact the CAA for advice. We shall try to help, and our aim is to get the returns right rather than to penalise your client for errors.
- 3.6 The advice in this Guidance Note does not apply to confirmations requested by the CAA in respect of airlines.

4 Licensing Criteria

- 4.1 The ATOL Regulations specify that the CAA shall either grant or refuse an application for a licence based on two criteria; all persons involved in the ownership or control of a travel provider must be considered fit persons; and a travel provider has sufficient financial resources to meet its obligations.
- 4.2 The full criteria on 'Fitness' and 'Finance' are set out in the 'Guide to ATOL', which is available on the ATOL website.

5 The Licensing Process

- 5.1 The ATOL Regulations determine that all licences are subject to a set of published Standard Terms.
- 5.2 A licence can have limits under the Public category which covers sales to end users and/or under the ATOL to ATOL category which covers sales to other Licence holders.
- 5.3 A licence is renewable annually on either 31 March or 30 September. Licence holders are notified four months prior to the renewal date of the need to submit a renewal application form. All licence renewals are subject to:
 - 5.3.1 the provision of the renewal application form and fees; and
 - 5.3.2 latest audited accounts [not required for SBAs] and other requested information; and
 - 5.3.3 satisfying the notified specific CAA renewal offer requirements.

Information

- 5.4 The application form, whether for an initial licence or a licence renewal, requests information in respect of a travel provider, confirming ownership and control details, a listing of shareholders, directors, proprietors, partners etc. It also requests details about the business carried out, both licensable and non-licensable, and projections for the level of limits an applicant requires for a licence. In addition it requests information about associated businesses and whether the Licence holder has provided or expects to provide any guarantees or security.
- 5.5 For applicants or holders of a standard (i.e. non SBA) licence the CAA requires them to provide a copy of the latest signed audited accounts which have been prepared for the members as a body pursuant to the requirements of the Companies Acts. For those applicants or Licence holders operating as sole proprietors or partnerships, the CAA accepts signed certified accounts. A breakdown of any 'other debtors' or 'prepayments' is specifically required but more detailed information on any items in the accounts may be requested.
- 5.6 For licences with large Licence Limits and in some other cases, the CAA may request additional financial information including, but not limited to, budgets and projections, management accounts, and details about available financial facilities.
- 5.7 The above information forms the basis for granting a licence. The assessment in terms of fitness and finance is dependent upon a Licence holder conducting the agreed level of business. The CAA therefore requires Licence holders to report on various data related to a Licence in order to be satisfied that a Licence holder is still meeting those criteria.

6 Reporting – Licence Holders

- 6.1 Licence holders with larger limits are required to report on the passenger numbers or revenue or both, on a booking date, or departure date basis or both. This information forms a critical part of the financial assessment when granting a licence and is a determining factor in terms of cost to the ATTF in the event of failure.

ATOL Protection Contribution

- 6.1.1 The APC is payable by a Licence holder for each passenger booked. The 'Payment Period' for a Licence holder depends on the type and size of a licence. This can be either monthly, quarterly or annually. The APC must be paid within six weeks of the end of the appointed Payment Period.
- 6.1.2 All Licence holders are required to report passenger bookings accordingly and to also report on the revenue in respect of those bookings.
- 6.1.3 Information on the ATOL Payment Contribution (APC) is set out in the Standard Terms section of the Official Record Series 3 – Air Travel Organiser's Licensing, which can be found using the following web link: www.caa.co.uk/ORS3.

Passenger Information on a Departure Date Basis

- 6.1.4 Licence holders are licensed on the basis of passengers departing in a licence period and the licence document sets the authorised limits for revenue and the associated numbers of passengers for departures during the licence period. Standard Licence Limits for both revenue and passenger numbers are broken down by category and calendar quarter but SBAs have an annual limit of number of passengers only. Although the Licence Limits can be varied, a Licence holder must trade within the agreed limits.
- 6.1.5 In order for the CAA to monitor licence levels and ensure Licence holders are operating within their agreed limits it is necessary for Licence holders to report on passengers departed and the revenue in respect of those passengers. The reporting periods for this information would be the same as the Payment Period for APC in most cases.

Forward Booking Information

- 6.1.6 On a monthly basis, larger Licence holders are also required to provide information in respect of all bookings held, i.e. all forward bookings held for travel in future, including any reported passengers actually booked in previous months or quarters which have yet to depart. This booking information needs to be broken down on the basis of when the passengers are due to depart. This forward-looking data allows the CAA to monitor whether authorised Licence Limits are realistic and to establish a risk profile in terms of customers' monies held and customers abroad.

Reports – Licence Holders

- 6.2 Reporting requirements for each type of Licence holder are described in Section 1 of the Official Record Series 3, 'Standard Terms of an Air Travel Organiser's Licence'.
- 6.3 The tables below summarise the requirements and form numbers for standard Licence holders and SBAs.

Size and Type of licence	Reporting period	Report due date	Passengers booked		Total forward pax booked		Passengers departed		CPG ATOL Form No
			Pax	Rev	Pax	Rev	Pax	Rev	
Standard >30,000 pax	Monthly	14 days from month end	√	√	√	√	√	√	3022
Standard ≤30,000 pax	Quarterly	14 days from quarter end	√	√			√	√	3021
SBA <500 pax	Annual	14 days from licence period end	√	√			√	√	3020
ATOL to ATOL sales	Quarterly	14 days from quarter end					√		3021

6.4 In addition to standard and SBA Licence holders, there are Licence holders (known as Franchise Member Licence Holders) who are members of a Franchise scheme. These include the Travel Trust Association (TTA) Franchise scheme and other Franchise schemes.

6.5 The following table summarises the reporting requirements for Franchise Member Licence Holders.

Size and Type of licence	Reporting period	Report due date	Passengers booked		Total forward pax booked		Passengers departed		CPG ATOL Form No
			Pax	Rev	Pax	Rev	Pax	Rev	
TTA > 1,000 pax	Quarterly	14 days from quarter end					√	√	3021
TTA ≤ 1,000 pax	Annual	14 days from licence period end					√	√	3020
Other ≤ 1,000 pax	Annual	14 days from licence period end	√	√					3020

7 The Role of Accountants

Risk Assessment

7.1 It is important that the CAA is satisfied that a Licence holder is trading within the limits of its licence and in line with information provided to the CAA. This is fundamental in terms of whether to licence the travel provider and the terms and conditions that will apply to it. These key licensing decisions have a direct impact on the cost to the ATTF in the event of failure.

7.2 Under the reports outlined in Section 6 above, Licence holders are required to provide specific information in terms of business conducted under the licence. These reports may indicate a Licence holder is overtrading or give cause for concern that there may be overtrading.

- 7.3 The Standard Terms to Licences give the CAA right of access to a Licence holder's business systems and for relevant requested information to be provided. However the CAA requires a Licence holder to provide independent confirmation from its accountant on the information submitted by a Licence holder in its reports to the CAA. The Reports to be provided by the accountant are outlined below in Section 8.

Duty of Care

- 7.4 The CAA relies on the accountants' confirmations of a Licence holder's figures for the reasons outlined above and it therefore expects those providing them to acknowledge they owe a duty of care when providing such confirmations to the CAA and the Air Travel Trust. In order to put this in a standard framework the CAA has developed, with the ICAEW, Standard Terms of Engagement for accountants to undertake this work for Licence holders in a way satisfactory to the CAA and the ATT. These are set out in the ICAEW Technical Release AAF 02/09 and in Annex 1 to this Guidance Note. These Terms of Engagement require the accountant to acknowledge the existence of a Duty of Care to the CAA and the ATT.

Liability Cap

- 7.5 The CAA also accepts however that the liability of accountants for any breach of that Duty of Care will not be unlimited. The CAA has agreed the accountants' liability can be capped in accordance with the Terms of Engagement set out in Annex 1 and the CAA's capping formula, referred to in ICAEW Technical Release Audit AAF 02/09, is set out in Annex 2. The level of cap will generally be determined with reference to the size of a particular Licence holder's Licence Limit under the Public category.
- 7.6 The scale set out (and summarised in the table) in Annex 2 is calculated based on 15% of the Licence holder's Public revenue Licence Limit or the actual bond, whichever is the greater. Previously the liability cap had been based on the level of bond for which historical rates had been 15% of licensable turnover; the obligation on most Licence holders to provide bonds has been removed following the introduction of the APC.
- 7.7 The liability cap calculation method and full details are set out in Annex 2.

8 Reporting – Accountants' Reports

- 8.1 It is for individual accountants to decide whether they wish to enter into the Terms of Engagement, which have been developed with ICAEW, or to continue with separate terms to which the CAA is not a party. However whether they do so or not the CAA will still expect the reports on the relevant forms [see Tables below] to be provided to it without any disclaimer as to duty of care. The inclusion of such disclaimers significantly weakens the confidence the CAA can place on the information provided, and where these are included in reports provided by accountants, the CAA will ask for additional comfort from the Licence holder concerned. This may be in the form of a bond or additional capital, or both. In addition the CAA may be unable to grant or renew a Licence without an independent and unqualified report.
- 8.2 Travel providers have a mix of business, and accountants will need to understand clearly the difference between licensable business, which is covered by the licence and by returns, and non-licensable activity. The accountant also needs to recognise the two different categories of licensable business, Public and ATOL to ATOL. Guidance on these licensable categories and which revenue should be counted is in Annex 3 to this Guidance Note.
- 8.3 The CAA requires an accountant to sign the Accountants' Report based on the relevant information submitted on the form by the Licence holder, for the reporting periods terminating during a Licence holder's last financial period. The completed forms should

be submitted to the CAA within six months of the Financial Year End or by the licence renewal date whichever is the earlier.

- 8.4 The following table summarises the forms for accountants' reports on passenger information for bookings and departures, under the ICAEW Terms of Engagement developed with CAA.

Accountants' reports – CPG ATOL Form Nos.					
Size and Type of licence	Passengers Booked		Passengers Departed		
	Passenger Numbers	Revenue	Passenger Numbers	Revenue	Ticket Provider Revenue
Standard	3030	n/a	3031	3032	3039
SBA ≤500 pax	3035	n/a	3036	3037	3039
Standard Trade (seat sales)	n/a	n/a	3031	n/a	n/a
SBA Trade (seat sales)	n/a	n/a	3036	n/a	n/a
Trade Licence (seat sales)	n/a	n/a	3031	n/a	n/a
TTA Franchisee Members	n/a	n/a	3031	3032	n/a
Franchisee Member	3035	n/a	n/a	n/a	n/a

- 8.5 The table below is the summary for accountants' reports on passenger information for bookings and departures where the accountants have not entered into the ICAEW Terms of Engagement.

Accountants' reports – CPG ATOL Form Nos.					
Size and Type of licence	Passengers Booked		Passengers Departed		
	Passenger Numbers	Revenue	Passenger Numbers	Revenue	Ticket Provider Revenue
Standard	3040	n/a	3041	3042	3049
SBA ≤500 pax	3045	n/a	3046	3047	3049
Standard Trade (seat sales)	n/a	n/a	3041	n/a	n/a
SBA Trade (seat sales)	n/a	n/a	3046	n/a	n/a
Trade Licence (seat sales)	n/a	n/a	3041	n/a	n/a
TTA Franchisee Members	n/a	n/a	3041	3042	n/a
Franchisee Member	3045	n/a	n/a	n/a	n/a

9 General factual confirmations

- 9.1 The CAA bases its view of a Licence holder's and applicant's finances on its audited accounts, which the CAA acknowledges have been prepared for its members as a body pursuant to the requirements of the Companies Acts. It may also ask accountants to report on specific matters directly to the CAA. For example, if it requires new finance to be injected into a Licence holder in order to grant or renew a licence it will ask for an accountants' report that the cash has been received by the Licence holder. It may be unable to grant or renew a licence without an independent and unqualified report.

10 Ring fence confirmations

- 10.1 When looking at the financial position of a Licence holder or applicant, which is part of a group, the CAA will normally make its assessment on the financial position of the group as a whole. In some cases, the financial position of the group is unable to meet the CAA's criteria and the CAA are asked to consider a Licence holder on a stand-alone basis. In order to do this the CAA needs to consider if a Licence holder is operating independently and therefore request that the accountants report that no financial guarantees have been given by the Licence holder in favour of any group companies, and that all trading was transacted on commercial terms with all balances settled monthly. Further guidance on ring fence confirmations is given in Guidance Note 18 which can be located on the ATOL website using the links given at the end of this document.

11 Effective date

- 11.1 The CAA will publish the new Guidance Note on the ATOL website in May 2009. In line with transition reporting arrangements detailed below, the CAA will write to Licence holders to outline the reporting arrangements that will apply to all reports signed commencing with the September 2009 ATOL renewals. All accountants reports need to be submitted between four and six months of the financial year end depending on the financial year end (see below).

Transitional arrangements

- 11.1.1 All March Licence holders joined the APC scheme on 1 April 2008. The September Licence holders had the option to join the scheme from either 1 April 2008 or 1 October 2008. Therefore there are slightly different reporting arrangements in the transitional period for each commencement date.
- 11.1.2 This Guidance Note will first be applicable for Licence holders with a licence renewal date of 30 September 2009 (which excludes all financial years ending on or before 30 November 2008). Certain transitional arrangements will apply for financial year ends from 31 December 2008 to 28 February 2010. For financial year ends from 31 March 2010, the full reporting requirements set out in this guidance note will apply.
- 11.1.3 As explained more fully below, notwithstanding the fact that accountants may have to carry out work and use old style reports, definitions of licensable turnover and the related work programmes set out in Technical Release Audit 02/03 for certain quarters during the transitional period in connection with the September 2009 renewal, all reports submitted in connection with 30 September 2009 licence renewals and thereafter will be prepared in accordance with Guidance Note 10 May 2009 and Technical Release AAF 02/09, including the Model Terms contained therein.
- 11.1.4 During the transitional period, reporting accountants should report as follows:

a) **Licensable turnover**

Reporting accountants should continue to report on licensable turnover. It should be noted that for financial year ends falling between 31 December 2008 and 31 May 2009, the old style reports and work programmes, using the old definitions of licensable turnover, will be required for the quarter ended 31 March 2008 and also for the quarters ending 30 June 2008 and 30 September 2008 if they did not join the APC Scheme until 1 October 2008. The quarters after 1 October 2008 require reports using the new style reports, new work programmes and new definitions and also for the quarters ended 30 June 2008 and 30 September 2008 if the Licence holder joined the APC Scheme on 1 April 2008. For all financial year ends subsequent to 31 May 2009, the new style reports and definitions shall apply for all quarters reported on.

b) **Passenger numbers on a booking date basis**

Reporting accountants should report on the number of passengers that have booked at each quarter end date, prospectively from the issue of this guidance note. The first quarter end date that reporting accountants will report on the number of passengers (booked) will therefore be 30 June 2009. During the transitional period, the number of quarters on which the reporting accountant will report on the number of passengers (booked) will depend on the year end date of the Licence holder (see table below).

c) **Passenger numbers on a departure date basis**

Reporting accountants should report on the number of passengers that have departed for each quarter during the reporting period commencing with the quarter ended 30 June 2008, or 31 December 2008 for those that joined the APC Scheme from 1 October 2008.

11.1.5 The table below summarises these reporting requirements during the transitional period.

Financial year end	ATOL renewal date	Information to be reported on		
		Licensable turnover	Passenger numbers (departed)	Passenger numbers (booked)
31 December 2008	30 September 2009	4* calendar qtrs to 31/12/08	3 or 1** calendar qtrs to 31/12/08	N/A
31 January 2009				
28 February 2009				
31 March 2009		4* calendar qtrs to 31/3/09	4 or 2** calendar qtrs to 31/3/09	N/A
30 April 2009				
31 May 2009				
30 June 2009	31 March 2010	4 calendar qtrs to 30/6/09	4 calendar qtrs to 30/6/09	1 calendar qtr to 30/6/09
31 July 2009				
31 August 2009				
30 September 2009		4 calendar qtrs to 30/9/09	4 calendar qtrs to 30/9/09	2 calendar qtrs to 30/9/09
31 October 2009				
30 November 2009				
31 December 2009	30 September 2010	4 calendar qtrs to 31/12/09	4 calendar qtrs to 31/12/09	3 calendar qtrs to 31/12/09
31 January 2010				
28 February 2010		4 calendar qtrs to 31/3/10	4 calendar qtrs to 31/3/10	4 calendar qtrs to 31/3/10
31 March 2010				

First quarter end date booking data can be collected and reported on

* refer to paragraph 11.1.4 a) above for the definitions of turnover to be reported in the calendar quarters.

** refer to paragraph 11.1.4 c) above for the number of quarters to be reported on.

- 11.1.6 The deadline for submission of accountants' reports is the earlier of:
- a) the expiry of a six month period after the Licence holders financial year end; or
 - b) its licence renewal date.

Licence holders with financial year-ends between December and May will have a September renewal date with a six month deadline for submission except for April and May financial year ends, where the ATOL renewal date of the subsequent September falls before the expiry of the six month deadline for submission. Those with financial year-ends between June and November will have a March renewal date with a six month deadline for submission except for October and November financial year ends, where the ATOL renewal date of the subsequent March falls before the expiry of the six month deadline for submission.

- 11.1.7 The reporting accountants should check with the Licence holder, and if necessary with the CAA, to ensure that the correct split between reporting under the old and new regimes has been applied.
- 11.1.8 Guidance Note 10 dated 1 September 2003 and ICAEW's Technical Release (Audit 02/03) will be withdrawn at the conclusion of the transitional period. Please note the arrangements for the liability cap are provided in Annex 2.

12 Queries

- 12.1 We are glad to help with queries. You may telephone your client's normal contact by dialling the direct number or for a general query you may telephone us on 020 7453 6430.

Annex 1

Model engagement terms² (these model terms were issued in May 2009)

The following are the CAA pre-agreed terms of engagement of Accountants by Licence holders to prepare reports required by the CAA in connection with the Civil Aviation (Air Travel Organisers' Licensing) Regulations 1995 (as amended) and the Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007.

A contract between a Licence holder, its Accountants, the CAA on its own behalf and as agent for the Trustees of the Air Travel Trust on these terms is formed when the air travel Licence holder and the Accountants sign and submit to the CAA a Report as set out in Clause 3 herein.

In these terms of engagement:

"CAA" refers to the Civil Aviation Authority;

"ATT" refers to the Air Travel Trust;

"the Licence holder" refers to the air travel organiser that is required to submit a Report to the CAA;

"the Accountants" refers to the Licence holder's accountant as defined in the CAA's Guidance Note 10.

1 Introduction

The Licence holder is required to submit to the CAA Reports as set out in Clause 3 below that are signed by their Accountants to provide independent assurance on the information provided. These terms of engagement set out the basis on which the Accountants will sign the Report.

2 The Licence holder's responsibilities

- 2.1 The Licence holder is responsible for producing the information set out in the Reports, maintaining proper records complying with the terms of the CAA's Standard Terms and providing relevant financial information to the CAA on a monthly, quarterly and annual basis in accordance with the requirements of the Standard Terms. The Licence holder is responsible for ensuring that the non-financial records are reconcilable to the financial records.
- 2.2 The management of the Licence holder will make available to the Accountants all records, correspondence, information and explanations that the Accountants consider necessary to enable the Accountants to perform the Accountants' work.
- 2.3 The Licence holder, the CAA and the ATT accept that the ability of the Accountants to perform their work effectively depends upon the Licence holder providing full and free access to the financial and other records and the Licence holder shall procure that any such records held by a third party are made available to the Accountants.
- 2.4 The Accountants accept that, whether or not the Licence holder meets its obligations, the Accountants remain under an obligation to the CAA and the ATT to perform their work with reasonable care. The failure by the Licence holder to meet its obligations may cause the Accountants to qualify their report or be unable to provide a report.

2. These model terms do not cover any reports requested by CAA in connection with lapsed licences and the release of bonds, sub-ordinated loans, guarantees and redemption of preference shares (see Appendix 1 to the ICAEW Technical Release AAF 02/09).

3 Scope of the Accountants' Work

- 3.1 The Licence holder will provide the Accountants with such information, explanations and documentation that the Accountants consider necessary to carry out their responsibilities. The Accountants will seek written representations from management in relation to matters for which independent corroboration is not available. The Accountants will also seek confirmation that any significant matters of which the Accountants should be aware have been brought to the Accountants' attention.
- 3.2 The Accountants will perform the following work in relation to the Reports required by the CAA³:
- 3.2.1 Accountants' Report: Licensable Revenue on a departure date basis: The Accountants will perform the suggested work procedures set out in Appendix 4(a) of Technical Release AAF 02/09 issued by the Institute of Chartered Accountants in England and Wales ("the Release") on both an annual and 4 calendar quarters basis and subject to any adverse findings will produce a Revenue report in the form set out in Appendix 5(a)(i) and 5(a)(ii) of the Release;
- 3.2.2 Ticket Provider Report: The Accountants will perform the suggested work procedures set out in Appendix 4 (b) of Technical Release AAF 02/09 issued by the Institute of Chartered Accountants in England and Wales and subject to any adverse findings will produce a report in the form set out in Appendix 5(b) of the Release;
- 3.2.3 Accountants' Report: Public Licensable passenger numbers on a booking date basis: The Accountants will perform the suggested work procedures set out in Appendix 4 (c) of Technical Release AAF 02/09 issued by the Institute of Chartered Accountants in England and Wales on both an annual and 4 calendar quarters basis and subject to any adverse findings will produce a report in the form set out in Appendix 5(c)(i) and 5(c)(ii) of the Release;
- 3.2.4 Annual Accountants' Report: Passenger numbers on a departure date basis: The Accountants will perform the suggested work procedures set out in Appendix 4 (d) of Technical Release AAF 02/09 issued by the Institute of Chartered Accountants in England and Wales on both an annual and 4 calendar quarters basis and subject to any adverse findings will produce a report in the form set out in Appendix 5(d)(i) and 5(d)(ii) of the Release;
- 3.2.5 Factual Confirmations Report: The Accountants will perform the suggested procedures set out in Appendix 4(e) of the Technical Release AAF 02/09 on request by the CAA and subject to any adverse findings will produce a Factual Confirmations report in the form set out in Appendix 5(e) of the Release;
- 3.2.6 Ring Fencing Report: The Accountants will perform the suggested work procedures set out in Appendix 4(f) of the Technical Release AAF 02/09 on request by the CAA and subject to any adverse findings will produce a Ring Fencing report in the form set out in Appendix 5(f) of the Release.

3. The following reports will be required for each category of Licence holder and accountants should amend the terms of reference for each engagement accordingly:

- a) Standard Licence holders - 3.2.1 to 3.2.4 above;
- b) SBAs – 3.2.1 to 3.2.4 above;
- c) Trade licences – 3.2.4 above;
- d) TTA Franchise Scheme Members – 3.2.1 and 3.2.4 above;
- e) Other Franchise Scheme Members – 3.2.3 above;
- f) Other Reports outlined under 3.2.5 and 3.2.6 will only be requested in specific circumstances.

- 3.3 The Accountants will not subject the information provided by the Licence holder to checking or verification except to the extent expressly stated. While the Accountants will perform their work with reasonable skill and care and will report any misstatements, frauds or errors that are revealed by enquiries within the scope of the engagement, the Accountants' work should not be relied upon to disclose all misstatements, fraud or errors that might exist.

4 Form of the Accountants' Report

- 4.1 The Accountants' Reports are prepared on the following bases:

4.1.1 The Accountants' Reports are prepared solely for the confidential use of the Licence holder and the CAA and solely for the purpose of submission to the CAA in connection with the CAA's requirements in connection with the Licence holder's Air Travel Organiser's Licence. They may not be relied upon by the Licence holder or the CAA for any other purpose except as provided in 4.1.2 below;

4.1.2 The CAA may disclose the Reports to the ATT in connection with any actual or potential liability to the ATT that may arise out of the business conducted by the Licence holder, and the ATT will be entitled to rely on them subject to the terms of this agreement. The ATT may share the Accountants' Reports and/or the information contained in the Accountants' Reports with;

- the ATT's insurers in accordance with the ATT obligations under its contract of insurance; and
- the ATT's own statutory auditors and legal advisors;

and the Accountants do not object to such disclosure provided that the ATT's insurers and the ATT's own statutory auditors and legal advisors agree for the benefit of the Accountants (and the CAA produces evidence of such agreement if and when requested by the Accountants) that:

- a) the Reports prepared by the Accountants are designed to meet the agreed requirements of the CAA, the ATT and the Licence holder only;
- b) the Reports are not to be regarded as suitable to be used or relied on by any party wishing to acquire any rights against the Accountants other than the CAA, the ATT and the Licence holder in accordance with this agreement;
- c) the Accountants do not assume any responsibility in respect of their work performed for the CAA, the ATT and the Licence holder or the Reports, or any judgments, conclusions, opinions, or findings that the Accountants may have formed or made, to any party except the CAA, the ATT and the Licence holder in accordance with this agreement;
- d) to the fullest extent permitted by law the Accountants accept no liability in respect of any such matters to any party except the CAA, the ATT and the Licence holder in accordance with this agreement;
- e) should any party except the CAA, the ATT or the Licence holder choose to rely on the work performed by the Accountants or the Reports, that party will do so at its own risk; and that
- f) the Reports are to remain confidential in the hands of the ATT's insurers and the ATT's own statutory auditors and legal advisors.

4.1.3 Neither the Licence holder, the CAA nor the ATT may rely on any oral or draft reports the Accountants provide. The Accountants accept responsibility to the Licence holder, the CAA and the ATT for the Accountants' final signed reports only;

- 4.1.4 Except as provided for in clause 4.1.2 above and clause 4.1.5 below, the Accountants' Reports must not be recited or referred to in whole or in part in any other document (including, without limitation, any publication issued by the CAA);
- 4.1.5 Subject to clause 4.1.2 above and except to the extent required by court order, law or regulation or to assist in the resolution of any court proceedings, the Accountants' Reports must not be made available, copied or recited to any other person (including, without limitation, any person who may use or refer to any of the CAA's publications);
- 4.1.6 The Accountants, their partners and staff neither owe nor accept any duty to any person other than the Licence holder, the CAA or the ATT in accordance with this agreement (including, without limitation, any person who may use or refer to any of the CAA's Publications) and shall not be liable for any loss, damage or expense of whatsoever nature which is caused by their reliance on representations in the Accountants' Reports.

5 Liability Provisions

- 5.1 The Accountants will perform the engagement with reasonable skill and care and acknowledge that they will be liable to the Licence holder, the CAA and the ATT for losses, damages, costs or expenses ("losses") caused by their breach of contract, negligence, or dishonesty or fraud or other deliberate breach of duty, subject to the following provisions:
- 5.1.1 The Accountants will not be so liable if such losses are due to the provision of false, misleading or incomplete information or documentation or due to the acts or omissions of any person other than the Accountants, except where, on the basis of the enquiries normally undertaken by Accountants within the scope set out in these terms of engagement, it would have been reasonable for the Accountants to discover such defects;
- 5.1.2 The Accountants accept liability without limit for the consequences of their own fraud and for any other liability which it is not permitted by law to limit or exclude;
- 5.1.3 Subject to the previous paragraph (5.1.2), the total aggregate liability of the Accountants whether in contract, tort (including negligence) or otherwise, to the CAA, the ATT and the Licence holder, for any losses suffered by the CAA, the ATT, or the Licence holder arising from or in connection with the work which is the subject of these terms (including any addition or variation to the work), shall not exceed an amount to be agreed between the parties by separate written agreement or, in the absence of such agreement, calculated in accordance with the CAA's capping formula published in CAA's Guidance Note 10 dated May 2009 ("the Liability Cap");⁴

In accepting an Accountants report prepared under an engagement in these terms the CAA and the ATT and the Licence holder agree that their respective claims against the Accountant shall be dealt with in accordance with the following priority. In the event of successful claims against the Accountants by more than one of the CAA, the ATT and the Licence holder, the CAA and the ATT shall be entitled to recover their loss in priority to the Licence holder subject always to the maximum Liability Cap. The Accountants shall notify the CAA if a claim is commenced by the Licence holder against the Accountants but the Accountants are not party to the separately agreed priority set out in the preceding sentence. Nothing in this paragraph will affect the validity or operation of clause 5.1.5 below;

4. The CAA's Guidance Note 10, issued May 2009, is available on the CAA's website www.atol.org.uk. Individual firms of accountants need to consider whether or not to accept the CAA's offered capping formula or negotiate a liability cap with the CAA by separate agreement. Such consideration will take into account, inter alia, whether the limitation is appropriate to the scope of the engagement, the fees generated, their assessment of risks in undertaking the work and their internal risk management policies. Where firms consider that they are unable to accept the formula, they may wish to negotiate their own individual capping arrangements with the CAA.

- 5.1.4 The Accountants' liability arising after the application of the other provisions of this clause 5 (above and below) shall in aggregate be limited to that proportion of the total losses, after taking into account contributory negligence (if any), which is just and equitable having regard to the extent of the responsibility of the Accountants for the losses, and the extent of responsibility of any other person ("Other Person");

In order to calculate the proportionate share of the Accountants' liability, no account shall be taken of any matter affecting the possibility of recovering compensation from any Other Person, including the Other Person having ceased to exist, having ceased to be liable, having an agreed limit on its liability or for other reasons being unable to pay, and full account shall be taken of the Other Person's responsibility even if that Other Person is not a party or witness to any relevant proceedings;

- 5.1.5 The allocation of the Liability Cap between the CAA, the ATT and the Licence holder shall be entirely a matter for the CAA, the ATT and the Licence holder, who will be under no obligation to inform the Accountant of it. If (for whatever reason) no such allocation is agreed, none of the CAA, the ATT and the Licence holder will dispute the validity, enforceability or operation of the Liability Cap on the grounds that no such allocation is agreed.

- 5.2 This paragraph 5.2 shall not apply to any claim that might be brought against the Accountants separately by the Licence holder. The CAA and the ATT agree that neither the CAA nor the ATT will bring any legal proceedings against the Accountants arising out of or in connection with this agreement or the services to be provided thereunder unless the ATT has suffered a loss as a result of the Accountants' breach of contract or their negligence arising from the provision of the services and: (i) a failure of the Licence holder has occurred⁵; (ii) the loss to the Air Travel Trust Fund (ATTF) exceeds 15% of the Licence holder's Public revenue Licence Limit, or the total of the actual bond, whichever is the greater; and (iii) the CAA and/or the ATT have taken reasonable steps⁶ to recover the loss from the Licence holder or any guarantees provided to the CAA or the ATT by the principals of the Licence holder or any other appropriate third parties. In the event that such conditions are satisfied, the CAA and the ATT further agree that the Accountants' liability shall, subject always to the Liability Cap referred to in clause 5.1.3 above, be limited to that proportion of the ATTF's loss that is in excess of 15% of the Licence holder's Public revenue Licence Limit or actual bond, whichever is the greater. Please see footnotes 5 and 6 below for definitions in respect of failure of the Licence holder and reasonable steps. In the event that conditions (i) and (iii) are satisfied but condition (ii) is not, such that the loss to the ATTF does not exceed the 15% threshold stated in (ii) and there is no bond, the Accountants' liability to the ATT and/or to the CAA shall be limited (on the basis stated above) to £250,000.

- 5.3 The Licence holder, the CAA and the ATT agree that they will not bring any claims or proceedings against any individual partners, members, directors or employees of the Accountants. This clause is intended to benefit such partners, members, directors and employees who may enforce this clause pursuant to the Contracts (Rights of Third Parties) Act 1999 (the "Act"). Notwithstanding any benefits or rights conferred by this agreement on any third party by virtue of the Act, the parties to this agreement may agree to vary or rescind this agreement without any third party's consent. Other than as expressly provided in these terms, the Act is excluded.

5. A failure of the Licence holder will occur if an authorised signatory of the CAA has signed a Notice of Licence holder failure in respect of that Licence holder and has placed a copy of that Notice on the CAA's Register of Failed Licence holders.

6. Reasonable steps are either: the institution of legal proceedings where it is consistent with the ATT fiduciary duties and/or the CAA function and duties; or formal claim in any insolvency.

- 5.4 Any claims, whether in contract, negligence or otherwise, must be formally commenced within two years after the party bringing the claim becomes aware (or ought reasonably to have become aware) of the facts which give rise to the action and in any event no later than four years after any alleged breach of contract, negligence or other cause of action. This expressly overrides any statutory provision which would otherwise apply. In the event that the CAA and/or the ATT delay commencing a claim against the Accountants in order to comply with their obligations under clause 5.2 to take reasonable steps to recover loss from the Licence holder and any guarantors, time will be deemed to have stopped running for the purposes of this clause 5.4 for the period that the CAA and/or the ATT are taking such reasonable steps.
- 5.5 The services provided by the Accountants under this agreement are separate from and unrelated to the Accountants' audit work on the financial statements of the Licence holder for the purposes of the Companies Act 1985 or the Companies Act 2006 as appropriate (the "statutory audit work"). The Accountants' obligations under this agreement are entirely separate from the statutory audit work for the Licence holder. Nothing in this agreement should be taken to and shall not add to or vary or extend in any way or on any basis any duty of care the Accountants may have in its capacity as auditor of the Licence holder's financial statements, nor to create any obligations or liabilities on the Accountants regarding the Accountants' statutory audit which would not otherwise exist.

6 Fees

The Accountants' fees, together with VAT and out of pocket expenses, will be agreed with and billed to the Licence holder, who will be responsible for the payment of such fees. Neither the CAA nor the ATT is liable to pay the Accountants' fees.

7 Quality of Service

The Accountants will investigate all complaints. The CAA, the ATT and the Licence holder have the right to take any complaint up with the Institute of Chartered Accountants in England and Wales ("the ICAEW"). The CAA, the ATT and the Licence holder may obtain an explanation of the mechanisms that operate in respect of a complaint to the ICAEW at www.icaew.co.uk/complaints or by writing to the ICAEW. To contact the ICAEW write to the Professional Standards Office, Metropolitan House, 321 Avebury Boulevard, Milton Keynes, MK9 2FZ

8 Providing Services to Other Parties

The Accountants will not be prevented or restricted by virtue of the Accountants' relationship with the Licence holder, the CAA and the ATT, including anything in these terms of engagement, from providing services to other clients. The Accountants' standard internal procedures are designed to ensure that confidential information communicated to the Accountants during the course of an assignment will be maintained confidentially.

9 Applicable law and jurisdiction

- 9.1 This agreement shall be governed by, and interpreted and construed in accordance with English law.
- 9.2 The Licence holder, the CAA, the ATT and the Accountants irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute (including claims for set-off and counterclaims) which may arise in connection with the validity, effect, interpretation or performance of, or the legal relationship established by this agreement or otherwise arising in connection with this agreement.

10 Alteration to Terms

All additions, amendments and variations to these terms of engagement shall be binding only if in writing and signed by the duly authorised representatives of the parties. These terms supersede any previous agreements and representations between the parties in respect of the scope of the Accountants' work and the Accountants' Report or the obligations of any of the parties relating thereto (whether oral or written) and, together with the matters included in the letter confirming terms of engagement, represent the entire understanding between the parties.

11 Termination

- 11.1 This agreement may be terminated by a party at any time by giving not less than 30 days notice to each of the other parties.
- 11.2 This agreement may be terminated by a party by notice with immediate effect if another party is unable to pay its debts or has a receiver, administrator, administrative receiver or liquidator (or in each case, the equivalent in another jurisdiction) appointed or calls a meeting of its creditors or ceases for any reason to carry on business or if in the reasonable opinion of the party wishing to terminate any of these events appear likely.
- 11.3 Notices must be in writing and delivered by hand or sent by registered post, in each case to the registered office of each party to this agreement, save that a notice will be validly delivered to the ATT if it is sent to the CAA. Any notice sent by post will be deemed to have been delivered 3 business days after sending.

Annex 2

Capping Formula of Accountants' Liability

- 1 The total aggregate liability of the Accountants whether in contract, tort (including negligence) or otherwise, to the CAA, the ATT and a Licence holder, arising from or in connection with the work which is the subject of these terms (including any addition or variation to the work), shall not exceed an amount as determined by the following formula ("the Liability Cap").
- 2 The Liability Cap calculation method is set out below:

The level of Liability Cap that will apply is dependent on the size of a particular Licence holder's licensable revenue. For standard licences the Liability Cap will be calculated based on 15% of the Public revenue Licence Limit of the particular Licence holder or the actual bond provided by the Licence holder, whichever is the greater, and applied to the bands in the table below at 2.1. The relevant Public revenue Licence Limit will be the Public revenue Licence Limit for the licence period in which the last financial year or period being reported on ends. The relevant bond will be the bond in place in the licence period in which the last financial year or period being reported on ends. If that licence is granted for a period of less than four calendar quarters, the calculation will be based on that Licence Limit, plus additional consecutive quarters taken from the most recent ATOL application form. Therefore there must be four quarters of licensable revenue when the 15% is applied.

There are some standard licences that have both the Public and the ATOL to ATOL category. The ATOL to ATOL category on the licence specifies seat numbers only and no revenue figure, and therefore the Liability Cap for work performed in respect of Licence holders will be calculated based solely on the relevant Public revenue Licence Limit or actual bond as set out in the paragraph above.

SBA Licences only have a Licence Limit for passenger numbers up to 500 and no revenue figure. Small Franchise members' licences only have a Licence Limit for passenger numbers up to 1,000 and no revenue figure. Therefore the Liability Cap for work performed in respect of either of these Licence holders will be £250,000.

The TTA Franchise members' licences for more than 1,000 passenger bookings have a Licence Limit for 'third party' revenue. The Liability Cap for these licences will be calculated based on 15% of 'third party' revenue instead of Public category revenue and the table set out in paragraph 2.1 below should be read accordingly to calculate the Liability Cap.

Trade licences only have the ATOL to ATOL category on the licence which specifies seat numbers only and no revenue figure. Therefore the Liability Cap for work performed in respect of these Licence holders will be £250,000.

- 2.1 The table below summaries the Limit of Accountants' Liability.

The Liability Cap for work performed in respect of SBA licences, Small Franchise members' licences and Trade licences will be £250,000 in each case.

Box (a) – For Standard licences, and TTA Franchise members’ licences, where 15% of the Licence holder’s Public Revenue* Licence Limit (as defined above) or the actual bond, whichever is the greater is:	Limit of Accountants’ Liability
≤ £0.25 million	£0.25m
> £0.25m but ≤ £0.5 million	£0.5m
> £0.5m but ≤ £5 million	100% of the amount calculated in box (a)
> £5m but ≤ £15 million	£5m plus 50% of the amount calculated in box (a) that is over and above £5m, up to a limit of £10m.
> £15m but ≤ £100 million	£10m
> £100m but ≤ £200 million	£20m
More than £200 million	£20m – However the CAA retains the right to individual negotiations for a higher liability cap for Licence holders in this bracket.

* or ‘third party’ revenue for TTA Franchise members’ licences for more than 1,000 passenger bookings

2.2 De minimis

Where the following conditions are satisfied:

- a) a failure of the Licence holder has occurred;
- b) there is no bond;
- c) the CAA and/or the ATT have taken reasonable steps to recover the loss from the Licence holder or any guarantees provided to the CAA or the ATT by the principals of the Licence holder or any other appropriate third party;
- d) the loss to the ATTF does not exceed 15% of the Licence holder’s Public revenue Licence Limit;

the Accountants’ liability to the ATT and/or to the CAA shall be limited (on the basis stated above) to £250,000.

2.3 The Liability Cap in the Case of Groups

Where an accountant is engaged to report on one or more Licence holders within a group, the aggregate Public Revenue Licence Limit (as set out in paragraph 2 above), for all Licence holders on which it reports shall be used as the basis for which the liability cap is calculated.

2.4 Transitional Period Liability Cap

The new arrangements for reporting came into effect at 1 April 2008, with the introduction of the APC. Most Licence holders came into the scheme from this date but some opted out until 1 October 2008. There will therefore be some Licence holders with 30 September 2009 ATOL renewals for whom Accountants will report on using both (i) the old categories of licensable revenue (Fully Bonded, Scheduled Bonded, Agency and Other Facilities) on the old style reports applying the work programmes in Technical Release Audit 02/03; and (ii) the new category of licensable revenue (Public) on the new style reports applying the work programmes in Technical Release AAF 02/09.

Notwithstanding this, it is important to note that the Model Terms contained herein, issued in May 2009, will apply to both the old style and the new style reports for 30 September 2009 ATOL renewals issued under these transitional provisions (old style reports for use in the transitional period are available on the CAA website www.caa.co.uk). As a consequence, the liability capping arrangement set out above will apply in the transitional period but the 15% calculation to determine the appropriate liability cap will require aggregation of both the old and new categories of licensable revenue as appropriate [excluding the Agency category]. A single cap so calculated will apply to all reports issued in respect of each 30 September 2009 ATOL renewal during the transitional period.

Annex 3

Guidance on “Licensable” Passengers & Revenue

In broad terms, an ATOL is required when a travel provider sells flights or flight inclusive packages as a principal. An ATOL is not required for sales made as an agent for other Licence holders, providing that these sales are documented correctly or for a flight only booking where a valid airline ticket is issued as soon as the travel provider accepts payment or where the ticket is sold on credit basis. Guidance on what constitutes a package sale was issued by BERR in January 2008. <http://www.berr.gov.uk/files/file43845.pdf>

Sales of flight inclusive packages and scheduled or charter flights only, for which a valid ticket is not issued immediately at the time of payment, have to be sold under a Licence and must be covered by Licence holder’s Reports.

The definition of ‘licensable transaction’ means any transaction to provide or to arrange for the provision of one or more flights (with or without ground accommodation or other facilities) in circumstances where this constitutes an activity in respect of which the Licence holder is required to hold a licence.

Which passengers should be counted as licensable?

Licensable business is divided into two categories. These are:

- **Public – flight onlys or flight inclusive packages sold to end-users**

This covers packages based on either scheduled or charter flights, and also seat-only sales where a valid ticket is not issued immediately;

- **ATOL to ATOL – sales to other Licence holders for resale under the buying Licence holder’s licence**

The buying Licence holder usually sells on to the end user. The business covered is normally air seats but occasionally flight inclusive packages may also be sold in this way. The selling Licence holder must check that the buyer holds an ATOL and that the buyer’s Licence Limit is sufficient to sell to passengers the seats it is buying. The Confirmation Invoice issued by the seller must make clear that the sale is ATOL to ATOL and that the seat will be sold to the public under the buyer’s licence. For reporting purposes CAA is only concerned with the ATOL to ATOL sales to unrelated Licence holders [referred to as “external” seat sales] and not ATOL to ATOL sales to other Licence holders in the same Group [referred to as “internal” seat sales].

What should be included in licensable revenue?

“Licensable revenue” is the income that arises from the licensable passengers described above and is only reported on for the Public sales category. It is the gross invoice value arising from the passengers in the relevant period - that is, the total sum they paid or are due to pay for their flights or holidays. It will therefore include the selling price of the flight or flights provided, plus any of the following that form part of the same combination:

- the selling price of any items that constitute part of the same package holiday - hotel accommodation and meals, self-catering apartment or car hire;
- ancillary items like excursions or cruises, ski or sports tuition, entrance fees or hire of specialist equipment, provided that these are included in the same sale as the flight or holiday, as opposed to purchased later;
- any taxes, duties or surcharges added on to the basic price quoted;
- agent’s commission - even though this will usually have been deducted from the cash amount transmitted by the agent to the Licence holder; and
- insurance, where this is sold by the Licence holder rather than by an agent.

When are passengers and revenue counted?

A relevant 'booking' means a booking made by an end user to purchase flight accommodation for one or more persons on a flight; and which is accepted by a Licence holder and constitutes an activity in respect of which that Licence holder is required to hold a licence. For the purpose of the bookings reports [monthly, quarterly or annual] revenue and passengers are taken as occurring when the Licence holder contracts with the customer (with or without part or full payment) for a licensable booking under their own licence.

For the purpose of the departed passengers report, revenue is taken as occurring when the passenger departs on the first leg of their flight or flight inclusive package. If a passenger has his outbound flight during one quarter, then the price he pays counts as revenue for that quarter, even though he may have paid in the previous quarter or his return journey may be in the next.

Which sales should not be counted as licensable?

- any sales that do not include air travel;
- sales on a "ticket provider" basis, where a valid airline ticket is issued immediately in exchange for payment, or where the customer pays after the flight(s) have been completed, as in most "business house" sales; [in broad terms to qualify as a valid airline ticket it would mean that the airline would carry regardless of payment];
- "retail" sales, where the Licence holder sells another Licence holder's product as an agent for the other Licence holder, usually for a commission. This would include a flight only or where a flight constitutes a component of a package this must be sold under a single contract between the principal Licence holder and the end user. A Licence holder who acts as another's agent must issue an ATOL Receipt on behalf of the other Licence holder and pass to the customer the other Licence holder's ATOL Confirmation Invoice. This business should be covered by a formal agency agreement.

If you have any doubt about whether or not your client has properly reported and categorised his licensable or non-licensable business, please contact the CAA for advice. We shall try to help, and our aim is to get the returns right rather than to penalise your client for errors.

Annex 4

The following list provides web links and contact details for Licence holders and new applicants.

CAA	http://www.caa.co.uk
Consumer Protection Group	020 7453 6430
ATOL Advice	advice@cpg.org.uk
New Applicants Advice	020 7453 6361
ATOL Licensing and Forms	http://www.caa.co.uk/default.aspx?catid=1092
Official Record Series 3	http://www.caa.co.uk/ORS3
Guidance Note 18	www.caa.co.uk/docs/33/CPG_ATOL_GN_18.PDF
BERR guidance on packages	http://www.berr.gov.uk/files/file43845.pdf
ICAEW	www.icaew.com