

# ATIPAC Response to the Package Travel Legislation: Updating the Framework, published by DBT on 7 April 2025

## Who are ATIPAC?

It has long been recognised that holidays are a large household purchase and that there is a period of time between a customer's payment and the customer's return from holiday, during which the seller could become insolvent. The Air Travel Insolvency Protection Advisory Committee (ATIPAC) was created in 2000 to advise the Secretary of State for Transport on financial protection of air travellers and customers booking with air travel organisers. This protection is mainly provided through the ATOL scheme which, broadly, licenses businesses to sell air package holidays and regulates contributions to the Air Travel Trust Fund to provide customers of failed tour operators with refunds or repatriation to the UK as necessary.

The Committee is devoted to furthering the interests and financial protection of air travellers. The Committee has an independent Chair, and its membership is uniquely balanced between trade and independent members, with a breadth and depth of knowledge and experience from all areas of the travel industry.

The Civil Aviation Authority (CAA) provides the secretariat function for the Committee, but the views expressed in this response are not necessarily those of the CAA.

## Observations of the Committee

Although there is no question on this in the current consultation (but there was in the previous Call for Evidence), the Committee remains of the view that the Government should formalise how to cope with emergencies such as a pandemic. The regulations were not designed for a situation where all holidays were cancelled and companies obliged to refund all customers within 14 days. The Government and industry did find a work-around through Refund Credit Notes, but we are now living with regulations which we know are not fit for purpose or practicable in extreme circumstances.

Some of the current consultation questions are not relevant to ATIPAC's remit as they do not affect package holidays which include a flight. The comments below therefore represent ATIPAC's views on the questions from the sections most pertinent to our remit.

## ATIPAC's Response

### **Section 1: How rules should apply to UK-only package holidays**

#### *Options*

- *Remove domestic packages from the scope of the regulations, unless they include transport of passengers*
- **Keep all domestic packages in scope of the regulations**

Q1. Do you think that domestic-only arrangements that do not include travel should be exempt from the regulations? a) Yes; **b) No**; or c) I do not know

The question refers to all packages which “include transport”. The consultation text however refers to transport at the start or end of the trip. ATIPAC wishes to point out that there could be transport during the trip but not at the start or end; for example between two or more events. To avoid difficulties of interpretation, the wording needs to clarify whether **any** transport element protects the package or just at the beginning or end.

More generally, although the proposal does not affect flight packages, ATIPAC would not welcome a reduction in consumer protection and thinks that inconsistency in treating packages would be confusing. Also, some sporting and cultural events are not paid for by credit card (which would give the consumer section 75 protection). We understand the need to balance consumer protection with burdens on business but would prefer to see all packages remain in scope.

## Section 2: Regulation of linked travel arrangements (LTAs)

### Options

- *Leave LTAs as they are*
- *Retain the LTA category but seek to limit the ways in which an LTA can be created.*

Q4. What do you think the regulatory position on linked travel arrangements should be? a) *Kept as it is*; b) *Simplified by extending the scope of type A and removing type B*; **c) Something else** or d) *I do not know*

Overall the Committee agrees that linked travel arrangements (LTAs) are confusing for consumers and sellers and offer limited protection. The Package Travel Directive is being reviewed in the EU and there is a possibility that the LTAs could be removed. In that instance UK companies could potentially have to abide by two different regimes if LTAs are retained domestically. ATIPAC’s response to the related question in the 2023 Call for Evidence was that they should be removed, and that stance remains the same for most of the Committee. It was noted at a recent Committee meeting, however, that there is a minority view with some being of the opinion that LTAs have been brought in for a purpose and removing them would undo that.

## Section 4: Territorial restrictions on insurance cover

### Options

- *Widen territorial restrictions to allow for insurers to be based outside of the UK, Channel Islands or the Isle of Man*
- **Keep them as they are**

Q9: What should we do concerning insurance cover for insolvency protection providers? a) *Relax territorial restrictions to allow supply by those regulated outside the UK, subject to protections being developed*; **b) Retain the requirements as they currently are**; c) *Something else*; d) *I do not know*

Overall the Committee feels that widening territorial restrictions on insurance cover to countries outside of the UK would make checking more difficult given the amount of fraud and scams these days. Air packages are anyway subject to separate regulation but we would not like them to follow such a precedent. Within the Committee there is, however, a minority view that widening territorial restrictions could provide a positive step towards enabling greater flexibility and/or increased competition on insolvency protection solutions for travel businesses in the UK. Any extension would, however, need to be strictly on the basis that foreign insurance providers who are regulated outside the UK are duly approved/authorised to provide coverage in the UK market.

## Section 6: Redress from third parties (Regulation 29, 14 day refund)

*Q15: Should the regulations be changed to require suppliers to provide redress to organisers within 14-days? a) Yes; b) No; c) I do not know*

The Committee has heard reports of package travel organisers struggling to obtain refunds from airlines, having already refunded the consumer for cancelled flights; of airlines refunding package organisers who have not passed the money on to the consumer; and of airlines not knowing that flights are being purchased for a package. The Committee considers that clarity is needed. It is important for consumers to receive their refund promptly.

On the other hand, there needs to be a system to prevent duplication of refunds. If there is a duty on the package travel organiser to refund the customer proactively, then it follows logically that the organiser must be able to obtain redress otherwise it will face the risk of having to absorb the loss, increasing the risk of insolvency; and the airline must be relieved of its separate obligation to refund the consumer for that flight. Conversely if the airline has refunded its passenger, the package travel organiser should be relieved of its obligation for that refund. This complexity of communications could potentially be addressed by code of practice. During the COVID-19 pandemic, many holiday companies stayed solvent only because their customers voluntarily accepted Refund Credit Notes instead of taking up their right to a refund within 14 days.

Redress from third parties and refunds from airlines (when flights which are part of a package holiday are cancelled) are topics of much concern for the Committee and have been included in our Annual Report recommendations for several years. We find that Regulation 29 and the 14 day refund issue are still of concern despite the 2023 Court ruling<sup>1</sup>. Clarification is still needed along with a time obligation of less than 14 days for suppliers to refund the package travel organiser. This time obligation would need to be sufficient to allow for the organiser to receive the funds and process the consumer refund within the 14 day deadline.

## Conclusion

The remit of the Committee is to advise on issues which affect ATOL-holder insolvency, including the financial health of the sector and the underpinning legislation. To this end, and in summary, the Committee's response to the *Package Travel Legislation: Updating the Framework Consultation* is as follows:

- to retain domestic-only arrangements (with or without transport) within the scope of the legislation;
- to remove LTAs from the Regulations;
- to retain the territorial restrictions for insurance; and
- to improve redress from third parties and refunds from airlines (when flights which are part of a package holiday are cancelled) in order to facilitate customers receiving swift refunds without risking the financial viability of the travel organiser.

The Committee would like to thank the DBT for the opportunity to respond to this Consultation and hopes that the specific examples and recommendations provided will be beneficial in informing future legislation.

The Committee would welcome any updates or further consultation in due course.

<sup>1</sup>On the Beach Ltd & Others v Ryanair UK Limited & Others [2023] EWHC 2694 (Comm).