

ATIPAC

Annual Report 2013-2014



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Introduction

Dear Mr McLoughlin,

I have great pleasure in submitting the Committee's fourteenth annual report. Last year the Committee reported that the travel industry had embraced ATOL reform and supported the implementation of the ATOL certificate. Nevertheless, ATOL protection is restricted to UK based companies and those companies that are ATOL holders but based in other EU states and elsewhere selling holidays to UK based consumers. The Committee recognises that UK consumers may be adequately protected by other financial protection schemes providing refunds and/or repatriation. However, it is a matter of concern that consumers purchasing travel packages from non-ATOL holding companies based in other EU states may not be aware that levels of protection vary, even though they may be compliant with EU law and may well be inferior to that provided by an ATOL certificate. We need to provide safeguards against companies relocating to other cheaper jurisdictions in a 'race to the bottom' that may not provide consumers with suitable protection against their financial failure.





During the year a major online travel agent transferred its business from the UK to Spain giving the CAA only two days notice. The CAA was concerned with the lack of consumer appreciation of the implications of this move, particularly in view of the very short notice period given by the company. The Committee shared this concern and also supported the CAA in providing a consumer briefing on the differences in protection available between the UK and Spain so holidaymakers can make an informed choice. The Committee also noted that rumours were circulating that other companies may follow suit in order to benefit from lower costs by avoiding ATOL Protection Contribution (APC) and incurring lower overheads.

The Committee provided a comprehensive response to the 'Call for Evidence' issued by the Department for Transport (DfT) in connection with ATOL reform. The Committee felt that the current system, although adequate to do the job, is outdated due to the changes within the travel industry. The Committee feels strongly there should be a single Government Department responsible for those functions currently divided between the DfT and the Department of Business Innovation and Skills (BIS) and is clear this should be the DfT.

The Committee also provided a comprehensive response to BIS's consultation on the European Commission's Proposal for a New Directive on Package Travel and Assisted Travel Arrangements. The response was based on the overriding principle that the proposed Directive be primarily concerned with the protection of consumers. The Committee felt this should override provisions directed at encouraging cross-border trading where they appear to be difficult, complex or unduly burdensome in implementation and that as a result could undermine effective consumer protection.

The Committee has long sought clarity for consumers and reiterated the need for a much clearer Directive which clearly states what is protected and what is not and allows UK consumers to be protected by an effective scheme. The Committee continues to be very disappointed at the slow progress being made.

John Cox OBE
Chairman

1. Lowcostholidays move to Balearics

On 30 October 2013 Lowcostholidays Ltd notified the CAA that on 1 November 2013 it would be transferring its business from the UK to Spain.

Although the company had contacted all consumers with forward bookings offering them the option of cancelling their booking and receiving a full refund or continuing with their booking under the new arrangements, its letter was in the CAA's view unclear, and gave customers only seven days to decide.

Although consumers already holding an ATOL certificate continued to be protected in respect of sales made prior to the announcement, the level of protection provided for sales made after the relocation will be provided through the Spanish authorities. It is currently unclear what level of protection consumers would receive but it appears that in case of failure consumers on holiday would have to repatriate themselves and then make their claims in the Spanish courts.

There is a concern that other companies could follow suit and relocate to another EU state, not only to benefit from lower overhead costs but also to avoid ATOL Protection Contribution. It is also clear that in some EU member states the level of protection provided, though it may be compliant with EU law, falls short of that provided by ATOL. Consumers must be made aware of the risk that a holiday booked with a company not based in the UK may have a lower level of protection. The Committee expressed concern that the statement on the Lowcostholidays website that 'we have full financial protection arrangements as required by European law' could lead consumers to believe this is the same level of protection afforded by the ATOL scheme which appears not to be the case. It was also noted that the licence on the website is in Spanish with no translation readily available.

The Committee agreed that concerted efforts should be made to emphasise to the general public that 'to be protected you need an ATOL Certificate'. The recent reforms that required the certificate to be provided to consumers when booking a protected holiday had been generally well received.

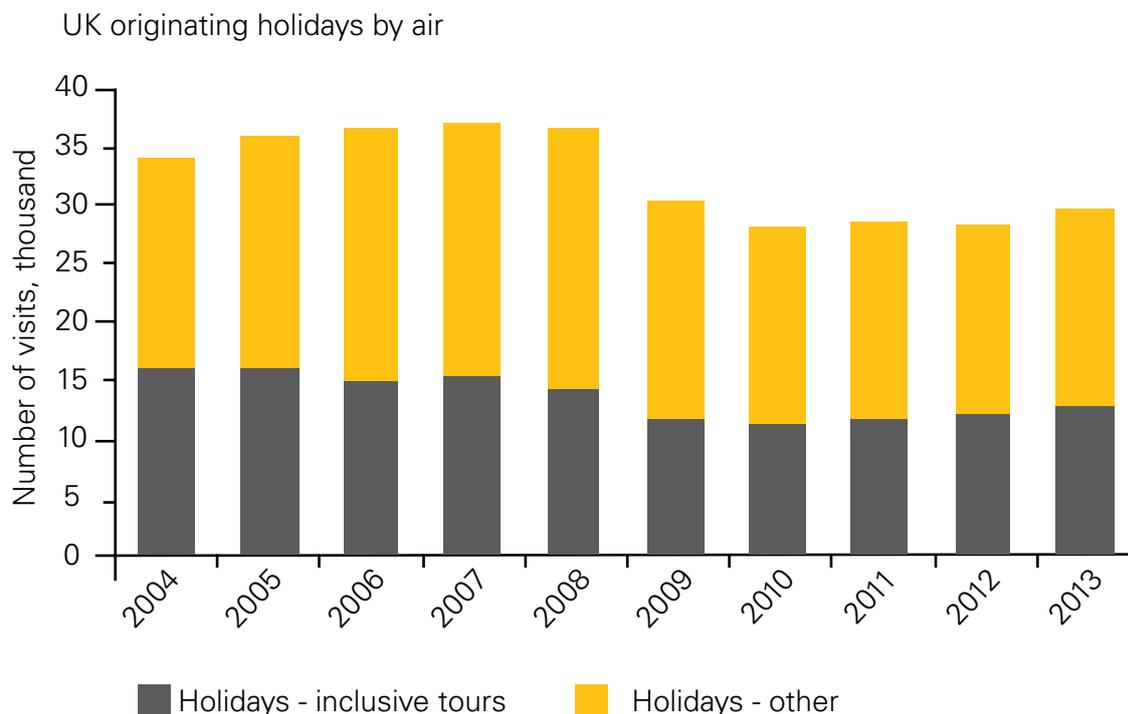
2. Travel industry in 2013-14

At the end of last year's report the Committee noted that trading conditions in the travel industry were still difficult. Consumer confidence, based inevitably on personal financial circumstances and on media reports, was still fragile.

During the year consumer confidence improved and a relatively positive trend in all areas emerged with consumers more ready to book holidays well in advance. Optimism has been expressed at travel conferences. The bad weather in early 2014 has encouraged consumers to book holidays in popular European destinations. However travel to Egypt has suffered due to ongoing political difficulties.

The reform of Air Passenger Duty (APD) announced in the recent budget was broadly welcomed as a 'step in the right direction' in removing certain anomalies in the amount of tax levied on long-haul flights to various destinations. However the level of APD remains high and continues to be a major concern as it significantly increases the cost of such holidays.

Graph 4, Source: Office of National Statistics



As the UK economy gradually recovers from the recession tour operators have seen a modest improvement in trading conditions as consumers continue to book foreign holidays albeit still in lower numbers than prior to the recession. The Committee is pleased to note that the number of failures has remained low with just 13 failures of mainly small tour operators in the current year, albeit a modest increase on the 11 failures in the prior year.

3. Market outlook for 2014/15

In recent months we have seen a number of indications that economic recovery has had a positive impact on the travel sector. The APC data for January and February shows a 13% increase compared with the same period in the previous year. The positive outlook has also been reflected by the applications of 50% of the leading licence holders in the current round of licence renewals. However following a strong first quarter, April and May have been disappointing particularly as the economy continues to strengthen. The reasons for this are unclear but there are indications that price sensitive consumers are shopping around and booking flights and accommodation separately.



4. Department for Transport 'call for evidence'

The Committee provided a comprehensive response to the 'Call for Evidence' issued by the Department for Transport (DfT) in connection with ATOL reform. (The full response can be found at www.atipac.org.uk).

Many of the questions posed asked for data specific to individual businesses which the Committee by its very nature was unable to provide. Consequently the Committee in its response prioritised a discussion of the principles underlying future reform of travel consumer financial protection, together with some short-term measures to improve financial protection that do not prejudice longer-term reform.

As a result of forty years of effective ATOL protection, and as a matter of long established principle and practice, financial protection for holiday travellers is vital in underpinning consumer confidence in the travel industry. It is necessary because, unlike most household expenditures, the holiday is booked and paid for well in advance of delivery; the consumer is paying for a 'promise' to be fulfilled at some future time. Moreover, it is generally the biggest financial outlay for the family during the year, with the exception of moving house or buying a car. It is essential for consumers and for the orderly conduct of business in an industry that depends on customers' trust that it is subject to regulation.

The current system, although adequate, is becoming outdated due to the changes within the travel industry. However the current system is not completely broken and still provides a foundation to work with. The present arrangements for financial protection of holidaymakers are split between two statutory frameworks:

- The Air Travel Organisers Licensing scheme (ATOL), managed by the CAA under the auspices of the Department for Transport which covers air-based holidays – 'licensable' travel.
- Non-ATOL packages (often referred to as 'non-licensable') surface transport-based travel, protected in compliance with the Package Travel Directive by Approved Bodies, falling within the responsibility of the Department for Business Innovation & Skills (BIS).

The Committee felt strongly there should be a single Government Department responsible for those functions which are currently divided between the DfT and BIS. The current division of responsibilities creates complexity, duplication of administration in travel companies, and regulatory inefficiency. The Committee is clear that financial protection against insolvency should be part of the remit of the DfT. This will lead to better regulation and simplification for the industry and its consumers.

The CAA has a proven expertise in delivering repatriations and refunds efficiently and is experienced at mobilising resources. It is our opinion that the CAA are in the best position to continue the administration function of the final scheme.



From the industry point of view the cost implications are important. The administration, and consequently the cost, of administering multiple protection systems is burdensome. One clear system covering both 'licensable' and 'non-licensable' would be simpler and less costly.

The Committee acknowledges the principles underlying the Government's approach. It is supportive of any solution that provides financial protection for holiday travellers across the board that is financially self-supporting, cost-effective for the industry and clear and simple to access for consumers.

From a consumer point of view the system needs to provide protection in a simple clear format. It should be clear that consumers only need to go to one place for their refund, and any refund should be administered quickly.

For both refunds and repatriation the scheme needs to be administered by a regulatory body independent of day-to-day government. Its funding (the APC) should not be classified as a tax, as it is better regarded as an 'insurance premium', feeding what should clearly be seen as a compensation fund. The scheme needs to be regulated and licensed to ensure companies are not acting fraudulently and to ensure they have financial stability.

The Committee supports a single system of statutory licensing to cover all holiday travel. Its considered view is that the benefits to consumer protection, the overall cost of industry compliance and administration should be lower, and the consistent implementation and enforcement of a single regulatory system, outweigh the costs for those operators under the current Package Travel Regulations that operate outside a licensing regime.

A single DfT travel protection regime for all types of package travel (perhaps delegated to the CAA with additional powers and responsibilities in this area) could be created by implementing new consumer travel protection regulations (replacing the Package Travel and ATOL Regulations) and would act as the national licensing and enforcement body for licence holders. This body would also oversee the various Accredited and Approved bodies. The Committee believes that this single scheme will simplify and improve regulation, and is entirely consistent with the Government's commitment to reduce regulation and 'red tape'.

Its scope should include non-Package arrangements, such as Flight Plus, Assisted Travel Arrangements or other combination sales captured by the new Package Travel Directive, which should also be incorporated in the regulations.

The concept of the ATOL Certificate should be preserved and developed as a broader travel protection certificate, in order to inform customers of their rights, across other forms of protected travel arrangements.

The new regulatory body would also manage a statutory fund for consumer refunds and repatriation. It should be funded by a levy analogous to the APC, which should be wholly devoted to these functions. However the Committee was unable to reach a consensus on how contributions should be structured and assessed and suggested an evidence-based analysis of the options, with appropriate regulatory and compliance cost assessments, should be carried out with expert assistance.



5. The Package Travel Directive and the UK position

Over the course of the last year, the European Commission has continued the process of developing a revised Package Travel Directive (PTD). The Commission published a new proposal in March 2013 but it now appears unlikely that a new Directive will be in place before the first quarter of 2015. The Committee continues to be very disappointed at the slow progress being made and is very concerned that it may involve a watering-down of the degree of protection. It is also concerned that any further delays could result in not being implemented in the UK before 2017.

The Committee provided a comprehensive response to the 'Call for Evidence' on the European Commission's Proposal for a New Directive on Package Travel (PT) and Assisted Travel Arrangements (ATA) issued by the Department for Business, Innovation and Skills (BIS). (The full response can be found at www.atipac.org.uk).

In view of the Committee's remit, the response was confined to questions concerned with insolvency protection for air travellers. The Committee based its response on the overriding principle that the proposed Directive is primarily concerned with the protection of consumers; this should override provisions directed at encouraging cross-border trading where they appear to be difficult, complex or unduly burdensome in implementation and that as a result may well undermine effective consumer protection.





The Committee felt it is imperative that BIS must push for a much clearer directive that makes a definitive distinction between what is protected and what is not, that contains the appropriate information requirements to ensure that consumers are fully informed about the protection provisions, and that allows UK consumers to continue to be protected by an effective scheme.

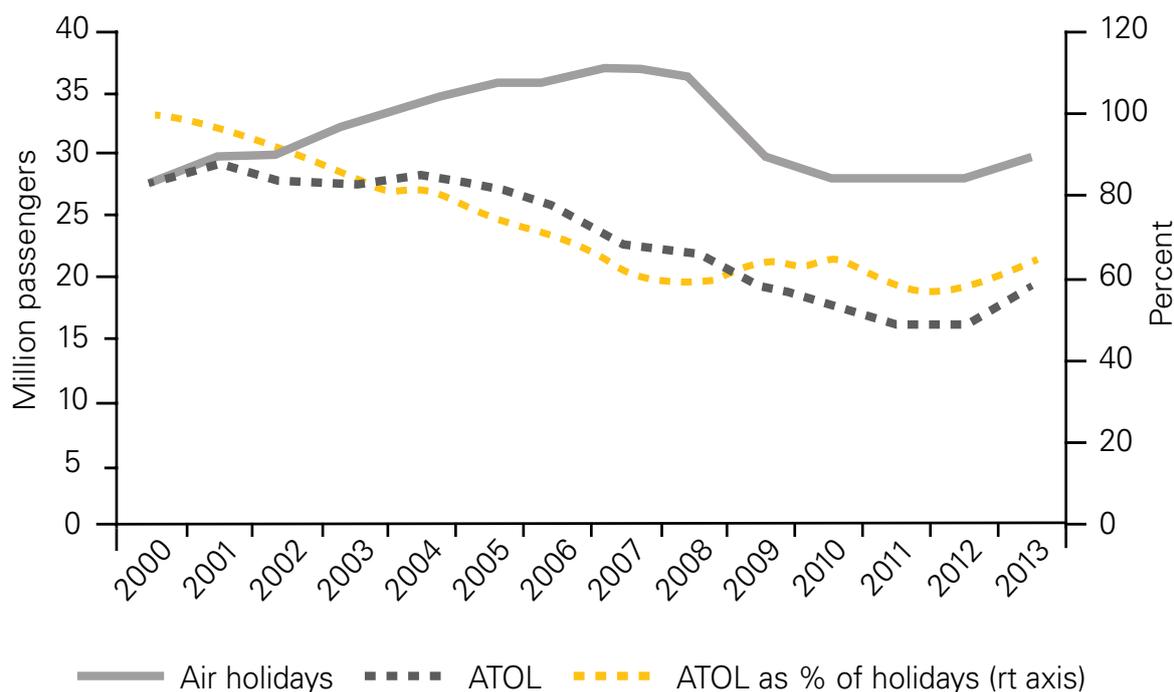
UK Government and Regulators must have confidence in the effectiveness of any scheme providing protection to UK consumers and provided under the regime of another Member State. It is, in practical and political reality, the obligation of the consumer's home Member State to provide assistance to that consumer in times of crisis.

It is useful to note the UK's experience here, as the UK has provided a full refund and repatriation service for over 40 years. Other than a short lived Government guarantee, the cost was borne entirely by the travel industry and its customers rather than the taxpayer. Over those years, the system evolved to take account of developments – though this is harder now, given the pace of technological change. Obviously the UK's experience is that of just one country, but the general point is that the new Directive needs to recognise that each Member State is starting from wherever they are now – not only are there protection systems currently in place that may not adapt well to new demands created by the proposal, but those protection systems will have influenced the shape of the travel industry in that Member State – the industry will also be influenced by this.

6. Publicising ATOL

The Committee agreed that the 'Pack Peace of Mind' campaign should be reinvigorated and promoted with Committee members' support to help ensure consumers were as well informed as practical.

ATOL and air holidays - calendar years



Booking a trip abroad?

Make sure it's...



ATOL protects you when you book a trip, including flights, with a travel company. It gives you peace of mind that you won't lose the money you paid out or become stranded abroad if your travel company collapses.

To check your travel company has an ATOL licence, or for further information, visit www.packpeaceofmind.co.uk



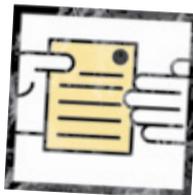
CHECK >>

Before you book, **check** whether you will be ATOL protected with your travel company.



BOOK >>

Once you've checked your protection, **book** your trip with no extra fuss.



RECEIVE >>

You must **receive** an ATOL certificate or airline tickets when you book and pay for your trip.



TAKE

Make sure you **take** the certificate with you in case something happens to your travel company.

7. Role of ATIPAC

The Committee's Constitution sets out the role and membership of the Committee. It is important that the Committee is fully representative of the industry and its customers in an environment that is changing. During the current year a review of both the constitution and the membership was commenced in order that the Committee is up-to-date and brings together a fully representative range of views, interests and expertise. This is particularly important as the terms of service of a majority of members are due to expire on 1 September 2014 and certain organisations previously represented no longer exist.

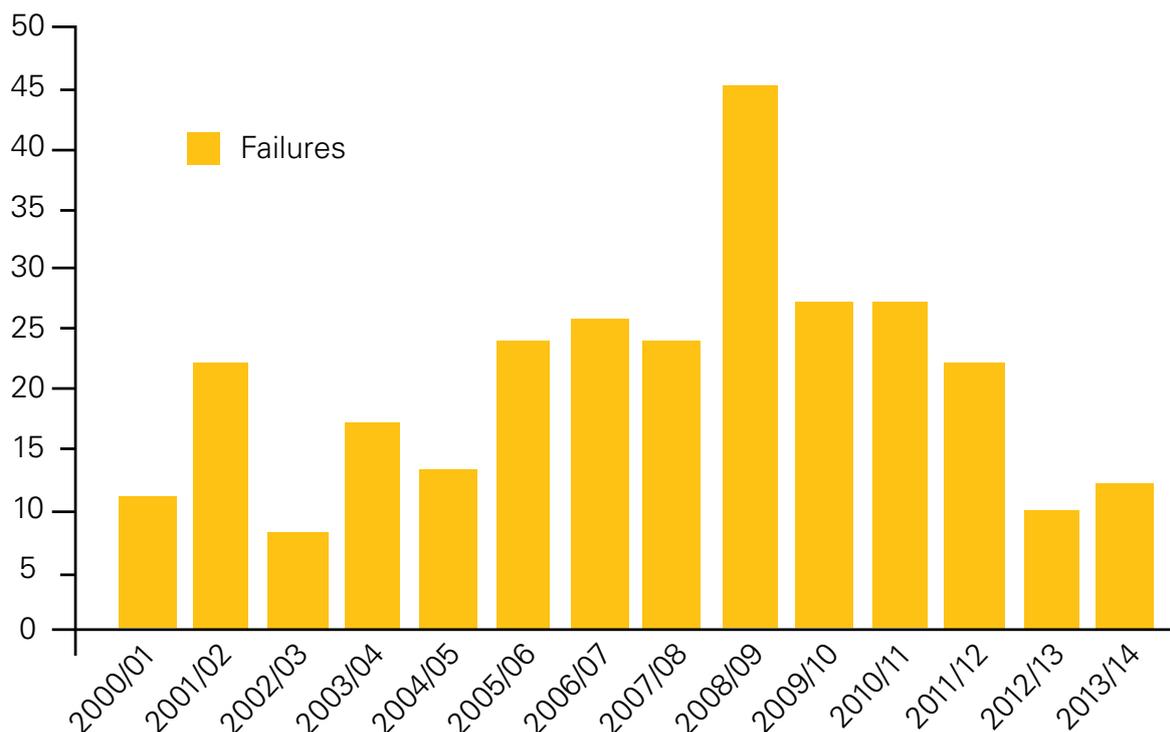
A draft revision of the Constitution and Terms of Reference was presented to the meeting held on 8 May 2014 and it is hoped that the new Constitution and Terms of Reference will be approved at the 3 July 2014 meeting.

Our responsibility for advising on the financial protection arrangements for air travellers remains paramount. Our aim is to not only incorporate trade, regulator and consumer representatives, but to expand the breadth of knowledge from all areas of the travel industry to enable us to provide informed counsel to the Civil Aviation Authority and the Secretary of State for Transport on financial protection for air travellers.



8. Failures

Table 1: No of failed ATOL holders 2000 – 2014



The performance of the travel industry has been remarkably stable, given recent economic history and problems in key Eurozone destinations. Nevertheless, the overall trading environment has been difficult, and profitability has remained low. ATOL holders took steps to match the number of holidays against the demand for holidays and coupled with the poor weather in the UK this created a relatively good summer for bookings.

Despite significant financial pressures only thirteen ATOL holders failed in the year, which, although marginally higher than the previous year, remains relatively low and so the impact on consumers and on the Air Travel Trust has been minimal.

Of particular note is the handling by the CAA of the failure of Ola Holidays (OH) which specialised in air holidays to popular Spanish resorts and held public sales authorisations of £21m for over 50,000 passengers. At the time of failure 350 consumers were overseas and a further 2,600 consumers were booked to travel. OH was the first Flight-Plus arranger failure since the implementation of ATOL reform in 2012. As consumers' flight arrangements were still in place the CAA was able to pilot the preparations it had made to fulfil forward bookings rather than refund customers. The fulfilment strategy

worked very well from the consumers' perspective with positive feedback from a satisfaction survey commissioned by the CAA. The CAA has estimated that by fulfilling OH's travel arrangements rather than refunding advance bookings it achieved a saving of approximately £600k in addition to matching consumers' preference for their holiday arrangements to continue.

The introduction of Flight-Plus within the protection of the ATOL scheme resulted in additional contributions during the year to the Air Travel Trust. The total receipts for the year amounted to £51.7 million from 21.5million passengers up from £46.6million from 29.2 million passengers in the previous year. The total value of expected claims on the Trust is £3.8 million compared to £0.8 million the previous year. Both of these factors have enabled the Trust to increase its surplus during the year by £36.7 million from £18 million to £54.7 million.

Full details of all failures are at Appendix 1.



9. Conclusion

The Committee is very concerned that tour operators could follow Lowcostholidays in moving their place of business to another EU state, not only to benefit from lower overhead costs but also to avoid ATOL Protection Contribution (APC). While it is unclear whether the level of protection provided under EU law in other countries is similar to that provided by ATOL there is clearly a risk to consumers that a holiday booked with a company not based in the UK will have a lower level of protection as the funds available may be inadequate.

The Committee provided a comprehensive response to the 'Call for Evidence' on the European Commission's Proposal for a New Directive on Package Travel (PT) and Assisted Travel Arrangements (ATA) issued by the Department for Business, Innovation and Skills (BIS). The Committee continues to be very disappointed at the slow progress being made as it was originally expected that the Commission would publish a new proposal by March 2013. However it has still not materialised and it now appears unlikely that a new Directive will be in place before the first quarter of 2015. The Committee based its response on the overriding principle that the proposed Directive is primarily concerned with the protection of consumers; this should override provisions directed at encouraging cross-border trading where they appear to be difficult, complex or unduly burdensome in implementation and that as a result may well undermine effective consumer protection. The Committee is concerned that the new draft Directive may result in a lower level of protection than currently enjoyed by UK consumers and mean a move to the lowest cost denominator.

The Committee agreed that the 'Pack Peace of Mind' campaign should be reinvigorated and promoted with Committee members' support to help ensure consumers were as well informed as practical and fully aware that 'to be protected you need an ATOL Certificate'.



APPENDIX 1

Details of ATOL holder failures April 2013 – March 2014

ATOL holder name	Date of failure	Licensed passengers	Security provided	Number of passengers repatriated	Cost of repatriation	Expected number of passengers to refund	Estimated Refund cost	Estimated Total expenditure	Estimated call on Air Travel Trust
			£'000		£'000		£'000	£'000	£'000
Shire Sports Ltd	11 Apr 2013	500	0	0	0	12	2	2	2
The Mountain Training School UK Ltd	13 May 2013	500	20	0	0	53	80	80	60
TJM Travel Ltd	29 May 2013	570	0	0	0	199	72	72	72
Sea Breeze Holidays Ltd	04 Jun 2013	2,659	0	0	0	1,190	521	521	521
Travel Click Ltd	19 Jul 2013	500	10	0	0	155	61	61	51
Britain Travel Ltd	13 Aug 2013	500	40	0	0	30	4	4	0
Academy of International Sport Ltd	28 Aug 2013	2,830	0	0	0	1,798	676	676	676
Abbott Travel Ltd	08 Nov 2013	500	0	0	0	108	351	351	351
Ola Holidays Ltd	20 Nov 2013	54,335	0	339	100	2,671	525	625	625
Quest World Travel Ltd	10 Feb 2014	500	0	28	28	92	141	169	169
Preston Travel (CI) Ltd	13 Feb 2014	20,243	0	127	63	3,956	978	1,041	1,041
Sunwest Leisure Ltd	18 Feb 2014	500	0	0	0	61	40	40	40
Augusta Golf Tours Ltd	28 Mar 2014	500	30	0	0	48	176	176	146
			100	494	191	10,373	3,627	3,818	3,754

Members: 1 April 2013 – 31 March 2014

John Cox OBE

John Cox has been Chairman of ATIPAC since its formation in April 2000. He is also the industry representative to the Air Travel Trust and a past Chairman of the Air Transport Users Council.



Michael Medlicott

Non-executive member of the CAA and also Chairman and a Trustee of the Air Travel Trust.



Richard Jackson

Representative of the CAA, Group Director of the Consumer Protection Group and CAA Board Member. He is also a Trustee of the Air Travel Trust.



Alisdair Luxmoore

Founder and Director of Fleewinter Ltd. He represents the Association of Independent Tour Operators (AITO). Alisdair sits on the AITO industry Issues group and also the sustainable tourism committee. Alisdair established Fleewinter in 2003 after a career in general business, including marketing director at Mirror Group Newspapers and commercial director at Dollond & Aitchison. Fleewinter is a small tailor-made tour operator specialising in long haul destinations with accommodation in villas, boutique hotels and safari lodges.



Andy Cooper

Former Director of Government and External Affairs at the Thomas Cook Group.



John de Vial

Head of Financial Protection for ABTA - The Travel Association and a former Director of ILG Travel; Thomson Holidays; TUI UK; the MyTravel Group; the Thomas Cook Group; ABTA; the FTO and FTO Trust Fund. John is a Trustee of The Travel Foundation and ABTA LifeLine and Chairs the Advisory Committee of the International Centre for Responsible Tourism



Roger Allard

A founding partner and director of First Choice plc where he served for 20 years. He is currently Chairman of All Leisure group plc and holds a number of directorships in the leisure industry. He is also on the Board of ABTA and represents them on ATIPAC.



Bruce Taylor

Director at Emerald Global Ltd. Brands are Emerald Travel, Peoples Travel, Emerald Corporate, Econsol, Etours, Namaste Travel, Salaam Travel. Representing the Association of ATOL Companies.



Gary Lewis

Managing Director of the Travel Trust Association (TTA) and The Travel Network Group



Iain Lindsay

Senior Vice President and Deputy General Counsel of Sabre Holdings and lastminute.com. He represents the on-line travel industry.



Prof. David Grant

Emeritus Professor of Law at Northumbria University and Editor of the Travel Law Quarterly. He is an independent member.



Bruce Treloar

Trading Standards Institute Lead Officer for the Holiday & Travel Industry. He represents consumer interests.



Roger Bray

Freelance journalist with a consumer focus. He is an independent member.



Uday Dholakia OBE

Senior Partner at Global Consulting UK Ltd. He is an independent member with an interest in better regulation and enterprise promotion.



Rochelle Turner

Head of Research for the World Travel & Tourism Council. She represents consumer interests.



Dale Keller

Chief Executive of the Board of Airline Representatives in the UK (BAR UK). He has 25 years' experience in the aviation, travel and tourism industries. He represents BARUK



