



# ATIPAC

Air Travel Insolvency Protection Advisory Committee  
**Annual Report 2023/24**

**July 2024**

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## Introduction from the Chair

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We are pleased to present this annual report of the Air Travel Insolvency Protection Advisory Committee (ATIPAC), which covers the year to 31 March 2024.



A holiday is always a large household expenditure item. But the current cost of living pressures make it a stretch or even a luxury for many. It is therefore important for consumers to be protected against the travel company failing after they have paid but before they have travelled; or worse still while they are abroad.

The main components of financial protection for air travellers are:

- a thriving and competitive travel industry with low risk of company failure;
- an appropriate and easily understood regulatory regime for consumer protection; and
- affordable and effective travel insurance for eventualities not covered by regulations.

These are not fully in place at the moment, in particular an appropriate and easily understood regulatory regime. Fortunately, the travel sector experienced a very low number of failures and improved consumer demand in 2023-24 following the extreme challenges of the pandemic. Nevertheless, it is a good time to improve the regulatory regime for British consumers as Brexit has given us more flexibility to do so. We were pleased to contribute to the review of the Package Travel Regulations led by DBT and hope this will lead to concrete improvements being implemented. We are disappointed that the year saw little progress on a government initiative started some time ago: the Airline Insolvency Review led by DfT.

The Committee appreciates that there is a limited amount of time available for Government to allocate to the concerns raised by the travel industry. Therefore, members would like to draw attention to the **recommendations** which are considered most needed by the industry:

- consumer protection in the event of airline insolvency;
- refunds from airlines when flights which are part of a package holiday are cancelled;
- coherent legislation; and
- formalisation of Refund Credit Notes as an emergency measure, which was an excellent ad hoc scheme enabling holiday companies to survive Covid.

The Committee believes that introducing the above measures would help to build consumer protection and confidence in the sector. Members would welcome a response to these requests in due course.

## The Role of ATIPAC [sometimes referred to in this report as “the Committee”]

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- 1.1 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, and the seller could fail at any point during that period. The Air Travel Insolvency Protection Advisory Committee (ATIPAC) was created in 2000. Its role is to provide informed advice to 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.
- 1.2 The Committee is devoted to furthering the interests and financial protection of air travellers. Its Constitution and Terms of Reference are provided at Appendix A. The Committee, which meets on a quarterly basis, has an independent Chair, and its membership is uniquely balanced between trade, passenger representatives and independent members, with a breadth and depth of knowledge and experience from all areas of the travel industry.
- 1.3 Given the diversity of its membership, individual views vary but we always aim to produce a consensus in our Annual Report and in our responses to Government consultations. It should also be noted that although the Committee’s Secretariat function is provided by the Civil Aviation Authority (CAA), the report does not necessarily reflect the CAA’s own position.

## Conducting ATIPAC Business

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- 2.1 ATIPAC (the Committee) meets quarterly to discuss specific topics and also to compare notes generally from across the various parts of the travel industry. At each meeting we receive updates from Government colleagues in DfT and DBT about relevant policy developments. In addition, during the past year we had a presentation from CAA Communications about their publicity campaigns to spread awareness of the ATOL protection scheme when booking a holiday. The Committee has benefited from regular updates on the progress of the ATOL Reform project. This project aims to ensure that the licensing scheme for holiday companies remains fit for purpose and incentivises companies to lower their risk of failure for the benefit of consumers.
- 2.2 The Committee benefits from regular input from the Chartered Trading Standards Institute who provide quarterly updates on travel-related complaints that they have received. This provides ATIPAC with an overview of the difficulties experienced by consumers and raises awareness of campaigns and other work underway, for example:
- The European small claims procedure has been repealed, as part of the EU exit, and overseas contacts are therefore relied on for enforcement. In 2023, 67% of flight complaints (where flights were cancelled, delayed or rescheduled) concerned Online Travel Agencies (OTAs) based outside the UK. Trading Standards has been working with the UK International Consumer Centre (UKICC) which provides free and impartial advice to UK consumers who have experienced problems when buying abroad. The UKICC had evidence suggesting that two OTAs based in Spain were not submitting claims to airlines for consumers or were adding fees to any refund received. The investigation is ongoing.
  - UK Trading Standards Authorities prepared a public policy paper in 2023 entitled, “Wish you were clear” in which was included a public and business poll. It highlighted key points relating to flight-inclusive packages and, in particular, the confusion surrounding “Linked Travel Arrangements”, which are not the same legally as package holidays.
  - UK Trading Standards Authorities are asking for the creation of a sector-specific offence of providing incorrect/false/misleading information to consumers (as there was in the 1992 regulations), rather than relying on the Consumer Protection from Unfair Trading Regulations 2008.

## Conducting ATIPAC Business

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- 2.3 The Committee also receives regular updates from Citizens Advice on travel-related contacts that they receive. Recent queries and complaints made to the Citizens Advice consumer service are broken down as follows:

<b>Financial Year</b>	<b>Holidays &amp; accommodation</b>	<b>Air travel (general)</b>	<b>Package holidays overseas (exc. all inclusive &amp; activity)</b>	<b>Package holidays overseas (all inclusive)</b>
2021-22	11989	6451	2393	1650
2022-23	10713	6910	2457	1923
2023-24	8034	4313	1545	1449

- 2.4 Although these are topline figures and we need to be careful about conjecturing, the trend for holiday and travel contact with the consumer service does seem to be down from previous years and maybe an indication that the market is behaving more like it did in pre-covid times. However, it is also important to note that overall there were fewer contacts to the Citizens Advice consumer service (across all areas) throughout 2023 than in 2022. Looking at the number of travel contacts as a proportion of all contacts to the consumer service it is only slightly down (in 2023 it was 1.9%; in 2022 and also 2021 it was 2.1%).



## Positives in the Past Year

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### Strong Consumer Demand for Holidays

- 3.1 Members have reported that during 2023/24 trading has been good from the point of view of consumer demand, which in some cases is ahead of pre-pandemic figures. Despite cost-of-living pressures, it seems that consumers are prepared to make an annual holiday a priority, perhaps due to pent-up demand for travel following the pandemic.

### Record Low Number of Insolvencies

- 3.2 The number of failures of package holiday organisers licensed under the ATOL Regulations (ATOL-holders) has been very low. From January to September 2023 the Committee heard that there were in fact no failures, which is thought to be unprecedented over so many months. Since then there have been six which remains the lowest in many years. The low rate of insolvencies over the past few years has provided the opportunity for the Air Travel Trust (ATT) Fund to rebuild following the pandemic<sup>1</sup>.
- 3.3 Appendix B is attached and shows the comparative data over a ten-year period.

### Continuation of Protection

- 3.4 In the previous year's Annual Report, members expressed concern over the potential impact of the Retained EU Law (Revocation and Reform) Bill (REUL) in relation to the Package Travel Regulations (PTRs) and several other aviation protections which were within its scope. The Committee was pleased that those consumer rights and protections were retained for passengers' benefit pending the review mentioned in the next paragraph.

### Progress on Package Travel Regulations - Call for Evidence

- 3.5 While supporting the PTRs in principle, the Committee considers they have flaws which the UK has the opportunity to remedy post-Brexit. There is scope to create a simplified and cohesive regulatory framework, whereby consumers are protected and standards are kept high, whilst reducing some of the administrative costs that come with the current system. The Committee was pleased therefore to see the Call for Evidence "Package Travel Legislation: Updating the Framework" published in September 2023. This DBT consultation document was duly considered by ATIPAC and a response provided on the areas most pertinent to our remit. These related to domestic packages, linked travel arrangements (LTAs), business travellers, redress from third parties and extenuating circumstances.

<sup>1</sup>The ATT Fund provides customers of failed tour operators with refunds or repatriation to the UK as necessary, and the latest audited accounts show the Fund had £117m at March 2023. This is compared with £60m at March 2022 (audited accounts 2021/22).

## Positives in the Past Year (continued)

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3.6 The recommendations put forward by the Committee were as follows:

- to retain domestic-only arrangements and business travellers within the scope of the Regulations;
- to remove LTAs from the Regulations;
- to learn from the pandemic and give businesses more flexibility for extenuating circumstances beyond their control; and
- to facilitate customers receiving swift refunds for cancellations and clarify responsibilities where separate businesses (such as an airline and a travel organiser) are involved in this.

3.7 Regarding the last of these points, there was a relevant legal judgment in October 2023<sup>2</sup> about the current Regulation 29, the meaning of which was disputed. The High Court ordered Ryanair to pay £2m to On the Beach for flights it cancelled or significantly changed during the pandemic. On the Beach is an online travel agent which organised package holidays encompassing a Ryanair flight. On the Beach had a duty to refund cancelled holidays and argued that Regulation 29 entitled it to redress from Ryanair. (In February 2024, it was announced that Ryanair and On The Beach had agreed to work in partnership following the litigation.)

3.8 Our full response is attached for reference as Appendix C and the Committee awaits the outcome of the consultation in due course.

## Engagement with Government

3.9 The Committee has benefited from continued input from DfT and DBT colleagues. The Chair welcomed the invitation from the then Aviation Minister, Baroness Vere of Norbiton, to meet with a Senior Civil Servant at the DfT in July 2023 to discuss the key areas of concern raised in the last Annual Report. Julia Lo Bue-Said and Alan Bowen, two of the industry representatives on the Committee, took part in the meeting along with the Chair and provided some business-perspective on the market. The recommendations from the 2022/23 Annual Report were also discussed and a follow-up meeting was held in January 2024 to build on the discussions held. The Committee hopes to continue to develop and strengthen these relations going forward.

<sup>2</sup>On the Beach Ltd & Others v Ryanair UK Limited & Others [2023] EWHC 2694 (Comm).

## Positives in the Past Year (continued)

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### Development of ATIPAC

- 3.10 The ATIPAC Chair has been working with CAA and DfT colleagues to develop the membership and scope of ATIPAC in order to make the Committee more representative of the changing travel industry. The proposals, and the revised Terms of Reference as a whole, were approved by Anthony Browne MP, the then Minister for Decarbonisation, Aviation and Technology, at the end of 2023 and therefore took effect on 1 January 2024. With these now in place we have started work on recruiting additional members via an open and competitive recruitment process based on skills, knowledge, and experience. The aim of this is to ensure representation from across the industry and we expect these proposals to further enhance the effectiveness of the Committee, ensuring its advice is of maximum use to the Government.

## Challenges in the Past Year

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### Economic Environment

- 4.1 Members have reported that many travel organisations still carry debts from the pandemic period and customers are generally booking later. Booking levels previously seen at 12 weeks in advance of travel are typically not seen until around 10 weeks. This is thought to be partly as a result of consumer caution created during the pandemic and also because of the pressures on household finances from recent inflation and economic uncertainty.
- 4.2 As mentioned earlier, Brexit has provided the welcome opportunity for the UK to review the regulations governing package travel. On the other hand, businesses have reported some difficulties for their operations, such as new visa requirements for holiday reps in the EU which have led to increased overheads. They have also seen increased friction for some travellers to Europe, with documentation and border control changes.

### Geopolitical Impact

- 4.3 The industry bore the costs of evacuating many thousands of thousands of holiday makers from wildfires in Rhodes etc. in summer 2023. These kinds of climate-related disasters also affect those who are yet to travel, or yet to book, and want to go elsewhere. Consumer attitudes are influenced by media reports and advice from the Foreign Commonwealth and Development Office, and the industry has to respond to immediate circumstances and longer term trends. Inevitably political instability puts similar pressure on the travel industry e.g. the current Middle East conflict is affecting cruises as well as destination travel.

### Regulatory Environment

- 4.4 The financial protection regime for air travellers is fragmented across various regulations both European and domestic. It has grown up piecemeal and is difficult for consumers and travel organisers to understand. The Committee believes that, as well as reviewing specific legislation, an overall vision to move into the future on a planned basis is needed.

#### **EU Regulation 261/2004**

- 4.5 The Committee has been updated on the CAA engagement with Wizz Air in 2023 to ensure compliance with EU Regulation 261/2004 concerning passenger rights in the event of flight disruption. The Committee agrees that voluntary action to secure compliance is the most beneficial approach, but was pleased when the Government (in 2023) committed to expand the CAA's enforcement options, in cases where this fails.

## Challenges in the Past Year (continued)

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### **Airline Insolvency**

- 4.6 Airline insolvency and the Airline Insolvency Review (AIR) recommendations of 2019 were highlighted in our previous reports. Whenever a large airline fails there is heightened interest in new legislation to protect consumers, as at present protection applies only to package holiday customers. AIR was a substantial piece of work, and the Committee would like to see it taken forward in the year ahead now that we are past the travel disruption of the pandemic.

## Recommendations

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5.1 2023/24 has been a good year featuring a very low number of travel company insolvencies; a good level of consumer demand; and a consultation on the future of the Package Travel Regulations including some questions of particular interest to ATIPAC. Our recommendations this year are similar to last year:

### Airline Insolvency

5.2 The Airline Insolvency Review final report was published in 2019, and the Committee is keen to engage with the Government in taking this work forward at the earliest opportunity. In particular, we consider that Chapter 6 of that report Enabling an Orderly Wind Down presented some useful thoughts on enabling passengers to continue their journeys in the event of collapse of a large airline, or a failure in peak season when alternative capacity in the market may be insufficient.

### Refunds from Flight Delays and Cancellations

5.3 Air passengers' rights in the event of flight delays and cancellations stem from European Regulation EU-261/2004 (retained) as amended by The Aviation (Consumers) (Amendment) Regulations 2023. The European legislation itself is under review, and previous UK consultations have looked into specific problems including the interaction with the rights of package holiday consumers which stem from separate legislation. As mentioned in paragraphs 3.6-3.7 above, greater clarity is needed to ensure that travellers receive money due to them easily and without duplication and are not caught up in disputes between different companies. From the business perspective, ATIPAC has heard that some tour operators and travel agents have borne costs which should have been borne by airlines; and conversely some have been slow in passing back to the consumer refunds provided by airlines. A code of practice could be a tool managing these business relationships fairly.

### Coherent Legislation

5.4 ATIPAC has welcomed and contributed to previous Government consultations on air passenger rights and package holiday rights. We have not repeated all of our responses in this report. As an overall point we would urge however that any changes move towards a coherent regulatory landscape which is easy for businesses and consumers to understand. The current protections have grown up piecemeal and stem from different sources. ATIPAC understands that a major consolidation may not be a legislative priority but urges that any changes that are made with a view to their interaction with each other.

## Recommendations (continued)

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### Refund Credit Notes (RCNs)

- 5.5 The pandemic is fortunately behind us but it would be wise to prepare for future emergencies. The RCN system invented at short notice was beneficial in keeping many businesses operational during the pandemic. This had no basis in law but was negotiated between all parties including the Government in 2020. It enabled consumers to accept, voluntarily, an RCN rather than the refund they were entitled to at a time when the industry could not afford the unprecedented scale of mass refunds. ATIPAC recommends the establishment of a formalised structure so that the system can be called on again in any similar situation.

## Conclusion

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- 6.1 To conclude, the Committee appreciates that there is often a limited amount of time available for the Government to allocate to the concerns raised by the travel industry. Therefore, members would like to draw attention to the recommendations which are considered most needed by the industry:
- consumer protection in the event of airline insolvency;
  - refunds from airlines when flights which are part of a package holiday are cancelled;
  - coherent legislation; and
  - formalisation of Refund Credit Notes.
- 6.2 The Committee believes that introducing the above measures would reduce the risk of further travel firm failures and help to build consumer confidence in the sector. Members would welcome a response to these requests in due course.



## Appendix A

# Constitution and Terms of Reference

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## Establishment and Role of the Committee

1. The Air Travel Insolvency Protection Advisory Committee ("the Committee") is established by the Secretary of State for Transport to advise on the financial protection arrangements for air travellers and customers of air travel organisers.

## Composition of the Committee

2. The Committee is established as an expert advisory group. The Committee comprises up to twenty members who are selected on the basis of their skills, knowledge, and experience, with a balance between members drawn from the travel industry and independent members. Industry members will be those drawn from experts working within the travel industry, in particular those with current, relevant experience in the travel agent, tour operator, third party protection arranger and airline sectors. The composition of the industry membership will be such that there is an appropriate mix of industry members that reflect the broad and changing nature of the travel industry.

3. The remaining members are independent ("independent members") in that, although they might be acting in an advisory capacity to companies in the sector (for example in the areas of finance, insolvency, management consultancy, etc), they are not currently employed directly by a travel industry company. The independent members will ideally include individuals with current, relevant experience in consumer protection, for example consumer policy, consumer advocacy, etc. The Chair of the Committee is always an independent member.

## Observers

4. In addition to the membership of the Committee, representatives from a number of organisations may attend and contribute at Committee meetings as observers. Observers do not have the status of Committee members under these Terms of Reference.

5. Members of the CAA and the Trustees of the Air Travel Trust ("the Trustees") may sit on the Committee as observers. Department for Transport ("DfT") officials, and any other departmental officials invited by DfT officials, may sit on the Committee as observers. Members of Trading Standards and Citizens Advice may also sit on the Committee as observers. Members of other regulators or non-departmental public bodies (NDPBs) or similar bodies may also be invited by the Chair of the Committee to participate in meetings, as appropriate.

6. The Chief Executive of the CAA, in consultation with the Chair of the Committee, will identify organisations to nominate observers to sit on the Committee.

## Appointments to the Committee

7. Appointment of members will be made by the Chief Executive of the CAA in consultation with the Chair of the Committee. Appointments will ordinarily be for a term of up to four years which may be extended for a maximum of up to two years. However, exceptional circumstances will permit different appointment arrangements to be made. Members may resign at any time without the need for notice to be given.

8. If the Chief Executive of the CAA is satisfied that a member has been absent from meetings of the Committee for more than three consecutive meetings or is satisfied that a member is otherwise unable or unfit to discharge the functions of a member of the Committee the membership may be declared vacant.

## Meetings of the Committee

9. In consultation with the Committee, the Chair shall determine the Committee's procedures for and frequency of meetings, including any requirement for a quorum.

10. The Chair may set up working groups to consider and report on specific issues. Although such groups will normally be made up of Committee members the Chair may invite others with particular expertise to participate at their discretion.

## Duties of Committee

11. The Committee shall keep under review and from time to time advise the CAA, the Trustees, and the Secretary of State for Transport on the arrangements for the financial protection of air travellers and customers of air travel organisers. If the Committee considers its advice or Annual Report ought to be shared with any other Secretaries of State, or if any other action is considered necessary to take, it will notify the Secretary of State for Transport accordingly, who will then take any actions that they see fit.

12. In particular it shall:

- advise the Trustees, the CAA, and the Secretary of State for Transport on policies they should pursue to protect consumers;
- advise the CAA and the Trustees on payment policy and the use of their discretion when making payments from the Air Travel Trust (The Payment Policy);
- advise the CAA how they can promote awareness of Air Travel Organiser's Licence ("ATOL") protection to consumers and consumer expectations of protection;
- advise on agreements between the Trustees, the CAA and third parties such as credit card companies where there are no commercial sensitivity issues;
- advise on current market conditions, emerging market trends and, where appropriate, their potential impact on consumers and the financial protection arrangements; and
- advise the CAA and the Trustees on the financial viability of the Air Travel Trust.

13. By the end of June each year, the Committee will produce an Annual Report for the previous financial year on its activities which is submitted to the CAA, the Trustees, and the Secretary of State for Transport.

## **Administrative Arrangements**

14. Independent Committee members will be remunerated at an appropriate daily rate to be determined at the time of appointment. Reasonable out of pocket expenses<sup>1</sup> directly incurred by members of the Committee in attending meetings shall be reimbursed by the CAA.

15. The CAA shall be responsible for ensuring administrative support to the Committee.

Issued by:

The Department of the Environment, Transport and the Regions April 2000

Amended by the Department for Transport July 2006

Amended by the Department for Transport September 2014

Amended by the Department for Transport December 2023

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<sup>1</sup> In accordance with the CAA's Travel & Related Expenses Policy.

## Appendix B

## ATOL-Holder Failures

## ATOL-Holder Failures Financial Year 2023/24

Date of Failure	ATOL-Holder	ATOL No.	Estimated Consumers Affected
20/10/23	Luxtripper Ltd	11506	849 ATOL bookings plus 67 accommodation-only bookings
09/01/24	UK Hajj & Umrah Services Ltd	10141	0
18/12/23 lapsed 30/09/23	Flight Team Ltd (SBA)	10852	14 bookings
23/11/23 lapsed 30/09/23	Travel Inspired Ltd	12270	30 bookings
23/11/23	Florida Direct Ltd	11925	107 bookings
01/03/24	Trivoyage Travel Ltd	11876	0 bookings

## ATOL-Holder Failures from Financial Year 2014/15 – 2023/24

Financial Year	No. of Failures
2014-15	15
2015-16	10
2016-17	19
2017-18	9
2018-19	9
2019-20	8
2020-21	34
2021-22	15
2022-23	8
2023-24	6

## Appendix C

# ATIPAC Response to the Package Travel Legislation: Updating the Framework

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## The Committee

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. Its role is to provide informed advice to 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, passenger representatives and independent members, with a breadth and depth of knowledge and experience from all areas of the travel industry.

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

Given the diversity of its membership, it is not possible for this response to cover all points of view, it does however reflect the views of the majority of members who chose to take part. Some have decided to respond directly rather than as part of the Committee.

## Observations of the Committee

At a recent meeting of the Committee discussion focused on sections 1, 3, 7 and 8 of the DBT's Package Travel Legislation: Updating the Framework Call for Evidence document. These sections relate to domestic packages, linked travel arrangements (LTAs), business travellers, redress from third parties and extenuating circumstances in the Package Travel and Linked Travel Arrangements Regulations 2018 (PTRs). The comments below therefore represent ATIPAC's views on the questions from these sections as they are most pertinent to the remit of the Committee.

## ATIPAC's Response

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

Q2. Do you think that a) All domestic-only arrangements should be exempt from the Regulations; b) Domestic-only arrangements that do not include travel should be exempt from the Regulations; or c) Domestic-only arrangements should continue to be in scope of the Regulations as they are now?

ATIPAC's remit concerns only packages which include a flight. Around 140,000 people each year travel on a package holiday or trip that involves a domestic flight, with around half of these involving flights to or from Northern Ireland. So consumers in Northern Ireland would be particularly affected by removal of financial protection. Committee members were in favour of option C as the inclusion of domestic packages in the PTRs provides consumer protection, which encourages consumer confidence. Removing them could cause confusion for consumers as they may justifiably expect the same protection for a UK-only air package as they would have for one overseas.

For example, an ATOL-protected package which includes a flight to Scotland from another part of the UK and hotel accommodation is likely to be of similar value to a comparable package in Europe, and most consumers would expect to receive the same financial protection in an insolvency situation in both cases.

Removing the UK-only packages from the legislation could create an inequality for package holiday organisers, who currently benefit from a 'level playing field' between domestic and non-domestic air packages. It could also encourage an increase in less-reputable organisers of those holidays.

Nevertheless, if it is decided to remove domestic packages from the PTRs then that policy should include domestic air packages, so as to prevent inconsistency with other domestic packages such as rail.

### **Section 3: Regulations of LTAs**

Q8. Do you think the regulatory position on linked travel arrangements should be: a) kept as it is; b) simplified; c) incorporated into the definition of a package or d) removed from the Regulations?

Linked travel arrangements (LTAs) have been raised by ATIPAC members in previous discussions and are generally considered to be confusing for sellers and consumers alike. In addition, members have said that LTAs are not necessary to achieve what they were intended to (i.e. to stop organisers from circumventing the PTRs) as the definition of a package is very broad and failure to abide by it could also be addressed via unfair trading regulations. Overall, members agree that option D is most appropriate, that the LTAs should be removed from the Regulations.

### **Section 7: To which travellers should package travel rules apply**

The Committee considers it would be simpler and clearer if the PTRs continued to apply to all travellers. People can travel for more than one purpose, and there is not always a clear distinction between a business traveller and any other kind. Committee members felt that consumers are likely to expect the same level of financial protection on a business trip as they would receive on a family holiday, especially small businesses / self-employed people who are paying for their own travel.

### **Section 8: Further technical changes**

Redress from Third Parties

Q22-25.

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. There has, of course, been recent litigation in the High Court about third party redress between On The Beach Holidays and Ryanair. 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.

## Section 8: Further technical changes

Covid – Extenuating circumstances

Q 27. Do you think any changes should be made to the Regulations to account for extreme extenuating circumstances?

As indicated from the response to the previous question, refunds proved challenging for ATOL-holders (package holiday organisers licensed under the ATOL Regulations) during the pandemic. The Committee considers it reasonable to expect consumers to wait longer than the standard 14 days for a refund during a very widespread crisis such as the Covid pandemic and suggested that an extended timeframe could either be a fixed amount, such as 28 days, or dependent on the situation. Also, to avoid disputes in a crisis, a system to determine extenuating circumstances and the timeframe could be established and this could be via secondary legislation or a power delegated to the CAA or Secretary of State.

We also repeat the recommendation in the ATIPAC Annual Report for the formalisation of Refund Credit Notes as a measure to be employed in any similar situation in the future. During the Covid pandemic, Refund Credit Notes were vital in maintaining the travel industry. Far more businesses would have failed if they had had no other option than providing refunds within 14 days.

## Conclusion

The remit of the Committee is to advise on issues which impact on 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 Call for Evidence is as follows:

- to retain domestic-only arrangements and business travellers within the scope of the legislation;
- to remove LTAs from the Regulations;
- to enhance the rules to cover extenuating circumstances; and
- to improve redress from third parties or otherwise 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 Call for Evidence 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.  
Appendix D

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## ATIPAC Committee Members

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### **Sandra Webber**

Independent Representative and Chair

Sandra has been ATIPAC Chair since July 2018. Until recently she was also the Chair of the Water Alternative Dispute Resolution Panel which provides oversight of the water industry consumer redress scheme. She previously served as Director of Consumer Support at the CAA and before this worked at the Department for Transport where her responsibilities included aviation and the ATOL protection scheme.



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### **Alan Bowen**

Industry Representative

Alan qualified as a solicitor in 1982 and, after a number of years in private practice, joined ABTA as Head of Legal Services. For the last 20 years he has been the Managing Partner of AGB Associates which specialises in advising the travel industry. He represents the Association of ATOL Companies (AAC).



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### **Roger Bray**

Independent Representative

Roger is one of the UK's longest serving travel journalists and a former travel editor of London's Evening Standard. He was a passenger on Concorde's first commercial flight, covered the rise and fall of Laker Airways, various air disasters and the after effects of 9/11. He is the co-author of *Flight to the Sun* which explores the expansion of mass package tourism.



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### **Marykay Fuller**

Observer

Marykay Fuller was appointed to the Board as a Non-Executive Director in January 2019. She is Chair of the Air Travel Trust Fund, and also serves as a member of the CAA Audit Committee, and CAA International Ltd Management Advisory Board. Marykay's executive career was in finance and consulting and she is a former senior advisory partner at KPMG LLP. Earlier in her career, she also worked for the US Government where she worked on numerous US airline restructurings and represented the Corporation on the National Airline Commission.



## ATIPAC Committee Members (continued)

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### **Prof. David Grant**

Independent Representative

David is Emeritus Professor of Law at Northumbria University. He is the co-author of *Holiday Law* (Sweet & Maxwell) with Stephen Mason and Simon Bunce. He has written and lectured extensively on travel law.



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### **Rachel Jordan**

Industry Representative

Rachel is ABTA's Director of Membership and Financial Protection. Prior to this she worked within professional services at KPMG and EY. During this time she has advised some of the world's largest insurance companies on complex regulatory and risk matters, including global strategy, transformation and Brexit preparation. Prior to consulting, Rachel spent five years at the Financial Ombudsman Service - initially as a Senior Adjudicator, before being appointed as Ombudsman - where she acted as an independent point of liaison between consumers and financial businesses, to resolve disputes.



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### **Noel Josephides**

Industry Representative

Noel is Chair of Sunvil Holidays Ltd. He represents the Association of Independent Tour Operators (AITO), of which he is a Director. He is also the Chair of the ABTA membership committee.



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### **Dale Keller**

Industry Representative

Dale is the 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 BAR UK on the Committee.



## ATIPAC Committee Members (continued)

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### **Gary Lewis**

Industry Representative

Gary became Chief Executive Officer of The Travel Network Group in early January 2016 following a successful management buyout of the Group. He was instrumental in delivering the first CAA Franchise arrangement in 2003 which still today provides the basis for Travel Trust Association Members to gain individual ATOL membership.

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### **Julia Lo Bue-Said**

Industry Representative

Julia was appointed Advantage's Chief Executive Officer in 2018 and has a 25 year tenure with the business. Julia sits on both group and subsidiary Boards and under her leadership, profitability and shareholder value have grown. In September 2021, Julia was awarded The Travel Legend Award at The Travel Industry Awards in recognition of her part in leading the travel industry's recovery, driving change and representing the sector tirelessly through the Covid-19 pandemic.



### **Joel Reindorp**

Industry Representative

Joel is Head of Legal (Litigation) at easyJet where he is responsible for commercial and consumer-related legal matters. He previously served in the legal team at Monarch Airlines, gaining key insight into the industry regime. He advised both in private practice and in-house prior to his move into airlines.



### **Paul Smith**

Observer

Paul was appointed to the board as Group Director of Consumers and Markets on 24 May 2018. Before joining the CAA, he was the Head of Policy at the Payment Services Regulator, part of the UK's Financial Conduct Authority, since January 2016. Paul has also previously held the position of Chief Executive of the Australian Energy Market Commission as well as a number of senior positions with Ofgem and Ofcom.



## ATIPAC Committee Members (continued)

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### **John Snyder**

Industry Representative

John qualified as a Solicitor in 2000 and after secondments to various businesses such as B&Q plc, Superdrug plc and Virgin, he joined Carnival plc in 2004 where he is now General Counsel. Carnival is the largest cruise operator in the world and John's role includes dealing with legal issues relating to the operations of P&O Cruises, Cunard, Princess Cruises, Holland America Line and Seabourn cruise brands.



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### **Bruce Treloar**

Observer

Bruce is the Chartered Trading Standards Institute's Lead Officer for the Holiday & Travel Industry with over 40 years of experience as a practising trading standards officer.



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### **Lynette Williams**

Observer

Lynette was called to the Bar in 2006 and shortly after began working in Staffordshire Trading Standards. Lynette started working for North Staffordshire and Stoke-on-Trent Consumer Service in 2017. She delivered consumer training to new and existing staff, as well as monitoring and assessing quality. Lynette moved to Citizens Advice in 2020. In her current role, Lynette is involved in making sure that all website content, learning materials and support resources are fully up to date and accurate. She is also responsible for monitoring future changes in the consumer landscape and preparing materials to reflect these.



## ATIPAC Secretariat

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### **Sally Bland**

ATIPAC Committee Manager

ATIPAC is independent of the CAA. However, it is supported by the CAA Secretariat and the Committee is managed by Sally Bland. The Committee can be contacted via Sally at: [atipac@caa.co.uk](mailto:atipac@caa.co.uk) or on 0330 138 2416.

