

# **AIR TRAVEL TRUST**

**Report and Accounts**

**31 March 2005**



# **AIR TRAVEL TRUST**

## **Report and Accounts**

**31 March 2005**

© Civil Aviation Authority 2005

**Air Travel Trust  
CAA House  
45–59 Kingsway  
London WC2B 6TE**

15 July 2005

Secretary of State for Transport  
Great Minster House  
76 Marsham Street  
London SW1P 4DR


Sir

I submit herewith the Report and Accounts of the Air Travel Trust for the year ended 31 March 2005.

This year saw increased expenditure on customer claims from the Air Travel Trust Fund, although as a percentage of total turnover it remained low, demonstrating the Civil Aviation Authority's commitment to reducing the risk to the Trust.

Following difficult years for the travel industry in 2002 and 2003, market conditions improved during 2004, as is illustrated by a 1.8% increase in ATOL protected travel in the year to September 2004. Expectations for the next year are mixed although prospective bookings are encouraging, indicating a continuing increase in air travel, although as a percentage of all air travel, ATOL protected sales continue to fall.

The Trustees welcome the inclusion of the Civil Aviation Bill in the Queen's recent speech, which includes a plan to introduce legislation to replenish the Air Travel Trust. The Trust has been in deficit since 1996, and subsequently the amount of loan interest paid each year has often exceeded the amount of compensation paid to holidaymakers. The Trustees are now optimistic that a resolution to this unsatisfactory situation is imminent, and that this will enable the fund and the Civil Aviation Authority to work more efficiently in protecting the consumer.



Roger Mountford  
Chairman

# Air Travel Trust

CAA House  
45–59 Kingsway  
London  
WC2B 6TE

## TRUSTEES

Mr R P Mountford (Chairman)  
Mr R J Britton  
Miss C Jesnick  
Mr R T R Jackson (appointed 1 October 2004)  
Mrs H M Simpson (resigned 30 September 2004)

## OFFICIALS

Mr M Ashby, Treasurer  
Mr D J Bourne, Secretary  
Miss S Springett, Assistant Secretary

## BANKERS

National Westminster Bank plc  
Bloomsbury Parr's Branch  
214 High Holborn  
London WC1V 7BX

Bank of Scotland  
38 Threadneedle Street  
London EC2P 2EH

## AUDITORS

Deloitte & Touche LLP  
London

# Contents

	Page
Report of the Trustees	1
Report of the Auditors	7
Fund Account	11
Balance Sheet	12
Notes to the Accounts	13
Appendix 1: Text of the Trust Deed dated 5 January 2005	17
Appendix 2: Details of Tour Operator Bonds Called, April 2004 - March 2005	24
Appendix 3: Historical Movement of Reserve Fund Against ATOL Turnover	26



# Report of the Trustees

## CONSTITUTION AND TERMS OF REFERENCE

The Air Travel Trust exists as a reserve fund to back up the bonds provided as part of the Air Travel Organisers' Licensing system (ATOL), which is managed by the Civil Aviation Authority ('the CAA').

The ATOL scheme is a UK statutory system that provides financial protection to air travellers and air holidaymakers against the insolvency of their tour operator or travel company. With a few exceptions, all travel firms either advertising or selling air travel in the UK must hold an ATOL. The CAA holds bonds provided by ATOL holders and, if a company fails, the money from its bond can be used to allow customers abroad to complete their holiday and then return to the UK, and also to refund customers' advance payments for those who were still due to travel. When individual bonds prove to be insufficient to meet all the claims made upon them, the Air Travel Trust Fund provides money to meet the deficit.

The Trustees are all Board Members and officials of the CAA, appointed ex officio. The Trustees met once during the year, in June.

The terms of reference of the Trust are contained in the Trust Deed, which is at Appendix 1 of this report.

Two of the trustees are also members of the Air Travel Insolvency Protection Advisory Committee: Mr Roger Mountford and Mr Richard Jackson, who replaced Mrs Helen Simpson following her retirement from the CAA in October 2004. This committee represents parties affected by the financial protection of air travel, including travel trade associations, air travel consumers' groups and the CAA.



## REVIEW OF THE YEAR

The Trust Fund continues to be in deficit following a series of large calls on the Trust in the early 1990s. Liquid funds are provided from a credit facility with the Bank of Scotland, which is guaranteed by the Government.

In the year to 31 March 2005, the Trust incurred expenditure of £540,404 on failures and an amount of £69,368 was recovered as liquidation dividends from failed ATOL holders. £507,901 was charged to the Fund in interest costs. The year-end deficit was £10.6 million, which was an increase of £988,698.

Fourteen ATOL holding companies failed in the year ended 31 March 2005. This was a reduction on last year's figure of eighteen, however the call on the Trust was the highest in five years.

During the year, ATOL enabled 11,634 people to complete their holidays and return home with minimal disruption. A further 21,969 customers received refunds of their advance payments. Total expenditure was £10.3 million, of which £538,000 was paid by the Trust. Bonds therefore met 95% of claims, the highest figure since the formation of the Trust. The Civil Aviation Authority continues to manage the ATOL system so as to protect the fund from potential calls. During the year, the largest failure since 1991 occurred but was successfully managed within the capacity of its bond.

The failure of Ghana Travel Limited at the end of the year was responsible for the main call on the Trust Fund with expenditure of £566,000 against a bond of £321,000, resulting in a call on the Trust of £244,000. The CAA is investigating apparent overtrading by this company.

The failure of Unitours Travel Limited was the second largest call with total expenditure reaching £203,000 against a bond of £23,000. This led to a call of £180,000. Again, the CAA is investigating apparent overtrading by this company.

Other calls on the Trust were made by Euro Cities Limited (£72,000), Peopleschoice Holidays Limited (£22,000) and APA Travel Service

Limited (£20,000). The CAA is investigating whether there was any overtrading by these companies.

Full details of all bonds called are at Appendix 2.

In cases of overtrading the CAA, acting on behalf of the Air Travel Trust, will pursue personal guarantees in both the UK and overseas courts. The CAA has, for example, taken proceedings against the managing director of Dayrise Holidays Limited, who had given a personal guarantee. The total cost of repatriating and refunding Dayrise's customers was £1,236,005. The Dayrise bonds covered just over £1 million of the sum expended. Proceedings were commenced to recover the shortfall on the grounds that the Defendant had been overtrading.

Following several adjourned applications by the Defendant to have the personal guarantee set aside, judgement was entered in favour of the Air Travel Trust for the sum of £204,605.59. The Defendant was declared bankrupt by the High Court. Regrettably, the Air Travel Trust has not received any sums from the Defendant's distribution of assets.

## **REPLENISHMENT OF THE TRUST FUND**

Initially managed by the Air Travel Reserve Fund agency, the Trust Fund was established by a levy on holidays. The Fund's only income since 1978 has arisen from income from investments while the Fund was in surplus. It became apparent during the early 1990s following a number of large calls that the Fund would go into deficit unless new legislation re-introduced a levy so as to replenish the Fund. Although levy powers still do not exist, plans to reinstate them have been incorporated into the Civil Aviation Bill, which has been included in the Parliamentary session commencing in May 2005.

The announcement that parliamentary time has become available for new levy powers is welcomed by the Trustees and they remain hopeful that the Bill will be passed at the earliest opportunity in order to rectify the current situation.

In the meantime, claims are being met, and have been since 1996, through a borrowing facility guaranteed by Government. This is supported by continuing assurances from the Department for Transport that the Government remains committed to ATOL and that the guarantee will be further extended if the need arises.

## **ACKNOWLEDGEMENTS**

The Trustees are grateful to the Civil Aviation Authority for the continuing administrative support and secretariat services provided during the year. They also wish to record their gratitude to Helen Simpson for her long service in support of the ATOL system and as a Trustee. The Trustees welcome her successor, Richard Jackson.

**Accounts for the year  
ended 31 March 2005**



## **INDEPENDENT AUDITORS' REPORT TO THE SECRETARY OF STATE FOR TRANSPORT AND THE TRUSTEES**

In accordance with our engagement letter dated 27 June 2005, we have audited the accounts of the Air Travel Trust for the year ended 31 March 2005, which comprise the fund account, the balance sheet and the related notes 1 to 7. These accounts have been prepared under the accounting policies set therein.

This report is made solely to the Secretary of State for Transport and the Trustees, as a body, in accordance with Clause 13 of the Trust Deed dated 5 January 2004, as amended by a Deed of Variation dated 4 January 2005 ("the Trust Deed"). Our audit work has been undertaken so that we might state to the Secretary of State for Transport and the Trustees those matters we are required by our engagement letter to state to them in our auditors' report and for no other purpose. To the fullest extent permitted by law, we will not accept or assume responsibility to anyone other than the Secretary of State for Transport and the Trustees, as a body, for our audit work, for our report, or for the opinions we will form.

### **RESPONSIBILITIES OF TRUSTEES**

Clause 13 of the Trust Deed requires the Trustees to prepare accounts for each financial year.

The Trustees consider that in preparing these accounts, they have used appropriate accounting policies, consistently applied and supported by reasonable and prudent judgements and estimates. The Trustees have prepared the financial statements on a going concern basis.

The Trustees are responsible for keeping proper accounting records to enable them to ensure that the accounts give a true and fair view of the state of affairs of the Trust as at the end of the financial year and of the income and expenditure of the Trust for that period, and that they comply with the Trust Deed and the directions made thereunder by the Secretary of State for Transport. They are also responsible for the system of internal control, for safeguarding the assets of the Trust and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

## **RESPONSIBILITIES OF AUDITORS**

We report to you our opinion as to whether the accounts give a true and fair view and are properly prepared in accordance with the provisions of the Trust Deed and the directions made thereunder by the Secretary of State for Transport. We also report if, in our opinion, the Report of the Trustees is not consistent with the accounts, if the Trust has not kept proper accounting records or if we have not received all the information and explanations we require for our audit.

## **BASIS OF OPINION**

We conducted our audit in accordance with United Kingdom auditing standards issued by the Auditing Practices Board. An audit includes an examination, on a test basis, of evidence relevant to the amounts and disclosures in the accounts. It also includes an assessment of the significant estimates and judgements made by the Trustees in the preparation of the accounts, and of whether the accounting policies are appropriate to the Trust's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the accounts are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the accounts.

### *Going Concern*

In forming our opinion, we have considered the adequacy of the disclosures made in Note 1 to the accounts concerning the current Government guarantee which enables the Trust to meet its current obligations as they fall due. Note 1 explains the Trustees' belief that the Government will support the Trust by continuing the loan guarantee. If the Government were to withdraw its support, the Trust would not be able to continue as a going concern. In view of the significance of the situation we consider that it should be drawn to your attention but our opinion is not qualified in this respect.

## **OPINION**

In our opinion the accounts give a true and fair view of the state of the Trust's affairs at 31 March 2005 and its income and expenditure for the year then ended and have been properly prepared in accordance with the provisions of the Trust Deed and the directions made thereunder by the Secretary of State for Transport.

Deloitte & Touche LLP  
Chartered Accountants  
and Registered Auditors  
London

13 July 2005





## AIR TRAVEL TRUST

### FUND ACCOUNT for year ended 31 March 2005

	Note	Year to 31.3.05 £	Year to 31.3.04 £
<b>INCOME</b>			
Liquidation dividends and settlements	2	69,368	62,608
<b>EXPENDITURE</b>			
Compensation claims	3	(540,404)	(206,325)
Legal and administration expenses	4	(9,761)	(12,614)
Loan interest and bank charges		(507,901)	(408,621)
		<u>(1,058,066)</u>	<u>(627,560)</u>
<b>NET DECREASE IN FUND FOR THE YEAR</b>		<u>(988,698)</u>	<u>(564,952)</u>
<b>RECONCILIATION OF MOVEMENTS IN THE FUND ACCOUNT</b>			
Fund at beginning of year		(9,657,911)	(9,092,959)
Net decrease in fund for the year		(988,698)	(564,952)
<b>FUND AT END OF YEAR</b>		<u>(10,646,609)</u>	<u>(9,657,911)</u>

*There are no other recognised surpluses or deficits other than those presented above, consequently no statement of total recognised gains and losses is presented.*

*The following notes 1 to 7 form part of these accounts.*

## AIR TRAVEL TRUST

### BALANCE SHEET as at 31 March 2005

	<i>Note</i>	<i>31.3.05</i> £	<i>31.3.04</i> £
<b>ASSETS</b>			
Cash		1	1
		<u>1</u>	<u>1</u>
<b>CREDITORS:</b>	5		
Compensation claims outstanding		(386,172)	(199,896)
Bank loans		(10,203,105)	(9,372,274)
Loan interest and other creditors		<u>(57,333)</u>	<u>(85,742)</u>
		<u>(10,646,610)</u>	<u>(9,657,912)</u>
<b>NET LIABILITIES</b>		<u>(10,646,609)</u>	<u>(9,657,911)</u>
Represented by :			
<b>FUND ACCOUNT</b>		<u>(10,646,609)</u>	<u>(9,657,911)</u>

R P Mountford, Trustee

C Jesnick, Trustee

13 July 2005

*The following notes 1 to 7 form part of these accounts.*

# AIR TRAVEL TRUST

## NOTES TO THE ACCOUNTS for the year ended 31 March 2005

### 1 ACCOUNTING POLICIES

#### (a) Basis of preparation

The Trustees have prepared the financial statements in accordance with the terms of clause 13 of the Trust Deed shown at Appendix 1 and directions from the Secretary of State as referred to therein.

The Trust Deed allows liabilities to be paid out of the Trust Fund at the absolute discretion of the Trustees. The Trust meets its day to day working capital requirements through bank loans which are currently secured by a Government guarantee of up to £21 million. The Trustees have been informed that the Government will continue to support the Trust Fund by continuing the loan guarantee which will be further extended if the need arises. However, there is currently no mechanism in place to replenish the Trust Fund by means of levies authorised by legislation or otherwise.

The Trustees have prepared the financial statements on a going concern basis. The financial statements do not include any adjustments that would result from a withdrawal of support by the Government.

#### (b) Accounting Convention

The accounts are prepared under the historical cost convention.

#### (c) Income and Expenditure

Liquidation dividends and settlement income are accounted for on a receipts basis. Provisions are made for compensation claims on a full provision basis. Administration expenses and bank interest are accounted for on an accruals basis.

## 2 LIQUIDATION DIVIDENDS AND SETTLEMENTS

Liquidation dividends were received from the following:

	<i>Year to</i> <i>31.3.05</i> £	<i>Year to</i> <i>31.3.04</i> £
The Flight Company (UK) plc	–	62,608
Australia House Travel Ltd	21,197	–
ILG Travel Ltd	319	–
Quest Leisure Group Ltd	47,852	–
	<hr/>	<hr/>
	69,368	62,608

## 3 COMPENSATION CLAIMS

The compensation paid or provided (or prior advances released) during the year as a result of the failures of holders of Air Travel Organisers' Licences :

	<i>Year to</i> <i>31.3.05</i> £	<i>Year to</i> <i>31.3.04</i> £
<b>Failures prior to 31.03.04</b>		
Journeys East Ltd	–	(30,000)
R & K McDowell Ltd	304	3,000
Sky Tours & Travel Ltd	2,100	94,825
Specialist Tours Ltd	–	187,000
Tyche Tours Ltd	–	(3,500)
Vacation USA Ltd	–	(45,000)
<b>Failures since 31.03.04</b>		
APA Travel Service Ltd	20,000	–
Euro Cities Ltd	72,000	–
Ghana Travel Ltd	244,000	–
Peopleschoice Holidays Ltd	22,000	–
Unitours Travel Ltd	180,000	–
	<hr/>	<hr/>
	540,404	206,325

#### **4 ADMINISTRATION EXPENSES AND TAXATION**

	<i>Year to</i> 31.3.05 £	<i>Year to</i> 31.3.04 £
Audit Fees	4,080	4,107
Legal fees	<u>5,681</u>	<u>8,507</u>
	<u>9,761</u>	<u>12,614</u>

The Trust has no employees during the year (2004: nil).

None of the Trustees received any remuneration from the Trust in the current or preceding financial years.

The Trust has paid no taxation in the current or preceding financial years.

Administration is provided by the Civil Aviation Authority at nil cost to the Trust.

#### **5 CREDITORS**

The compensation claims outstanding represent expected claims on the Trust resulting from failures of holders of Air Travel Organisers' Licences.

The bank loans are repayable in between two and five years (2004 – within one year).

#### **6 ULTIMATE CONTROLLING PARTY**

The Trust is controlled by the Trustees under the terms of the Trust Deed agreed with the Secretary of State for Transport.

#### **7 POST BALANCE SHEET EVENTS**

Since the balance sheet date and up to 4 July 2005, there have been four failures of holders of Air Travel Organisers' Licences. Three of these are expected to result in a call on the Trust.



## Appendix 1



## ANNEX

**CONFORMED COPY OF AIR TRAVEL TRUST DEED DATED 5 JANUARY 2004  
AS AMENDED BY DEED OF VARIATION FOR THE AIR TRAVEL TRUST  
DATED fourth DAY OF January 2005**

**NOW THIS DEED WITNESSETH** as follows:-

- 1. THE** Trust constituted by this Deed shall be known as the Air Travel Trust unless and until the Trustees adopt and apply to it (as they are hereby entitled to do) some other name.
- 2. IN** this Deed the following expressions have the following meanings -
  - (1) "Air travel organiser" means a person whose activities consist of or include activities in respect of which he is required by virtue of any regulations for the time being in force under Section 71 of the Civil Aviation Act 1982 (hereinafter called "the 1982 Act") to hold an air travel organiser's licence;
  - (2) "Customer" means a person (other than an air travel organiser) who has made a payment or on whose behalf a payment has been made to an air travel organiser under or with a view to entering into a licensable transaction;
  - (3) "Defaulting air travel organiser" is an air travel organiser who the Trustees have reasonable grounds for believing cannot or will not be able to carry out his obligations in respect of a customer;
  - (4) "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 air travel organiser is required to hold an air travel organiser's licence;
  - (5) "Secretary of State" means the Secretary of State for Transport for the time being;
  - (6) "Specified Period" means the period beginning at the date of this Deed and enduring for twenty-one years and the said number of years shall be the perpetuity period applicable to this Deed;
  - (7) "Trustees" means the holders for the time being of the following Offices within the Civil Aviation Authority (hereinafter called "the CAA"), namely the Group Director Consumer Protection, the Director Finance & Corporate Services, the Board Member Licensing Finance and the Secretary and Legal Adviser (or the holder for the time being of all or any of those Offices under whichever title might be certified by the Secretary or Deputy Secretary of the CAA for the time being as applicable). The Original Trustees are the holders of those Offices as at the date hereof. "Trustee" means any one of the "Trustees";
  - (8) "Trust Fund" means and includes -
    - (a) the trust fund and all other assets subject to the trusts declared by the Deed dated 28 January 1986 made between the Secretary of State of the one part and Raymond Colegate CBE, Ian Edward Donovan, Thomas McMillan and Gillian Mary Eve White of the other

part which trust fund and assets the Secretary of State shall by Order direct be held on the terms of this present Deed,

- (b) all money investments or other assets hereafter paid or transferred by any person or persons to or into the control of the Trustees and accepted by them as additions to the Trust Fund,
- (c) any property the proceeds of sale whereof are required or directed to be held upon the trusts hereof,
- (d) all other capital assets including any choses in action and capital money which hereafter by any means become or are made subject to the trusts hereof, and
- (e) the investments property and other assets from time to time representing the foregoing items or any part or parts thereof.

**3. THE Trustees shall hold the Trust Fund and the income thereof during the Specified Period upon the trusts and with and subject to the powers and provisions hereinafter declared and contained.**

**4. THE Trustees shall have the following powers which are exercisable if they in their absolute discretion should see fit -**

- (1) Power from time to time during the period of 21 years from the date hereof to accumulate the whole or any part of the income of the Trust Fund by investing the same and the resulting income thereof in any investments hereby authorised and adding the accumulations to the capital of the Trust Fund.
- (2) Power (subject to clause 5 hereof) at any time or times during the Specified Period to pay or apply the whole or any part of the Trust Fund and of any income thereof (without making any distinction between capital and income) -
  - (a) in providing carriage by air or other means of transport for passengers (including the cost of providing food, hotel accommodation, the movement of baggage and other incidental expenses) in substitution for carriage which a defaulting air travel organiser was to provide or was to arrange to be provided in accordance with his obligations under or in connection with any licensable transaction, and
  - (b) to or for the benefit of any customer in respect of -
    - (i) any loss which, in the opinion of the Trustees, has been incurred by or on behalf of such customer in respect of any payment made by or on behalf of the customer to a defaulting air travel organiser under or with a view to entering into a licensable transaction; or
    - (ii) any loss or liability which, in the opinion of the Trustees has been incurred by or on behalf of such customer in consequence of a breach by the defaulting air travel organiser of any of his obligations towards the customer under or in connection with a licensable transaction.

**5. IN relation to the power set out in Clause 4(2) hereof -**

- (1) The said power may only be exercised if the defaulting air travel organiser held an air travel organiser's licence at the time of booking by or on behalf of a customer or at any time in the three months prior to the time of booking. For these purposes, the time of booking means the time when a payment was first made by or on behalf of a customer to the air travel organiser under or in contemplation of entering into a licensable transaction;
- (2) Where a bond or other security has been provided to the CAA by or on behalf of the defaulting air travel organiser in accordance with any requirements applicable to air travel organisers by virtue of any regulations made under Section 71 of the 1982 Act, then the Trustees may only exercise the said power either -
  - (a) after any money available under such bond or other security has been applied by the CAA for the purposes for which such bond or other security was provided but has been insufficient to satisfy claims arising from or in connection with the default, or
  - (b) if they are reasonably satisfied that the Air Travel Trust will be reimbursed by the CAA to the extent that the CAA has received or may in future receive money pursuant to such bond or other security.
- (3) For the avoidance of doubt it is hereby declared that the Trustees may exercise the said power in respect of claims arising from or in connection with any defaults occurring before the date hereof.

**6. IN default of and subject to any exercise of the power in clause 4(2) hereof and to the extent that the trusts hereby declared shall not validly take effect and subject to Clause 14 hereof, the Trustees shall hold the capital and income of the Trust Fund upon Trust for such persons and purposes in such shares and upon such conditions as the Secretary of State shall by Order made before the end of the Specified Period direct and in default of such an Order for the Secretary of State.**

- 7. (1) THE** Trustees shall have power to effect or concur in effecting any transaction concerning or affecting the trusts and powers contained in this Deed or any part of the Trust Fund or any other property whatsoever if the Trustees think the transaction is beneficial for such trusts and powers as if the Trustees were a sole absolute beneficial owner of the Trust Fund. Without prejudice to the generality of the foregoing, "transaction" includes any sale, exchange, assurance, grant, lease, surrender, reconveyance, release, reservation or other disposition and any purchase or other acquisition and any covenant, contract, licence, option or right, pre-emption and any compromise, partition, insurance, guarantee or indemnity or any other dealing or arrangement including the delegation of any of the Trustees' powers under this Deed; "effect" has the meaning appropriate to the particular transaction and references to "property" include references to restrictions and burdens affecting property.

(2) For the avoidance of doubt, insofar as any obligation to pay any money or monies arises pursuant to a transaction which the Trustees effect or concur in effecting pursuant to sub-paragraph (1) of this clause, the Trustees shall be entitled to make such payment or payments from the Trust Fund and nothing in clause 5(2) hereof shall affect this entitlement.

**8. WITHOUT** prejudice to the generality of clause 7 hereof, the Trustees shall have and may exercise at any time or times the following powers -

- (1) Power to borrow or to lend money for any purpose connected with the trusts and powers hereof whether with or without giving or receiving security;
- (2) Power in connection with the investment and changing of investments of trust money -
  - (a) to obtain and pay for the advice of such broker or other persons as the Trustees may think fit, and
  - (b) to employ any banking or merchant banking company or firm or other person or persons to manage such investments and to delegate to such manager or managers all or any of the duties or powers of the Trustees in respect of the investments or changing of investments of trust money.
- (3) Power to appoint any one or more of the Trustees to be the agents of the Trustees for the purpose of operating any bank or building society account of the Trustees or for the purpose of collecting any income of or managing or administering any property (in any part of the world) comprised in the Trust Fund or for any other purpose for which the Trustees may appoint agents;
- (4) Power (without prejudice to the jurisdiction of the Court) to decide what money or property represents income and what represents capital and how as between the capital and income of the Trust Fund any expenses or costs shall be borne or provided;
- (5) Power for the purpose of the trusts hereof to enter into any arrangement or contract notwithstanding that the person or persons with whom or on whose behalf the arrangement or contract is made are or include one or more of the Trustees;
- (6) Power to make rules and regulations for the management, administration, payment, application or distribution of the Trust Fund or any part thereof and for matters connected therewith as the Trustees from time to time may think fit and from time to time revoke and replace all or any such rules or regulations;
- (7) Power to appoint, engage or retain such persons as the Trustees may think fit or convenient to act in connection with such management, administration, payment, application or distribution and (pursuant to the general power for that purpose conferred by sub-clause (6) of this clause) to make amend revoke and replace rules and regulations for the purpose of defining the functions and powers of any such persons and power also

(if the Trustees think fit) to pay an honorarium fee or salary to and the expenses of any persons;

- (8) Power to delegate all or any of the powers and duties of the Trustees hereunder to any person or persons and upon such terms (including the remuneration and the payment of the expenses of the delegatee or delegates and including provision for the delegates if more than one to exercise any such power or duty either jointly or jointly and severally) as the Trustees shall think fit (without being liable for the acts or defaults of any such delegatee) and to revoke or modify any such delegation or conditions or terms. For the avoidance of doubt, where the Trustees delegate the power contained in clause 4(2) hereof, references in clause 4(2) to the opinion of the Trustees shall be construed as references to the opinion of the delegatee or delegates;
- (9) Power to insure the Trust Fund against claims for payments arising as a result of the inability of one or more air travel organisers to meet their financial commitments or for sharing with insurers the burden of payment of such claims;
- (10) Power to bring, defend or fund legal proceedings in relation to the Trust Fund or to any other matter concerning the trusts and powers set out in this deed or their administration including (but without prejudice to the generality of the above) the power to fund litigation to enforce any bond or other security provided to the CAA by any air travel organiser.

**9. THE** statutory provisions about the appointment retirement and discharge of trustees shall apply to the trusts hereof subject to the following provisions of this clause -

- (1) Upon retiring from or otherwise vacating any of the offices of the CAA referred to in clause 2(7) hereof and subject to the provisions of that clause the Trustee who until retirement or otherwise held the relevant offices in the CAA shall automatically cease to be a Trustee hereof and the vacant office of Trustee shall devolve on the person appointed to fill the vacant office in the CAA provided that in the event of a delay in the appointment of the person to the vacant office of the CAA the remaining Trustees can act notwithstanding a vacancy in their number;
- (2) Upon a Trustee being appointed pursuant to clause 9(1) above, the remaining Trustees and the person who has ceased to be a Trustee shall take all steps as are necessary to vest the Trust Fund in the remaining Trustees and the new Trustee jointly subject to the terms hereof.

**10. ANY** act or decision by two of the Trustees shall have the same force and effect as if it were the act or decision of all of them.

**11. THE** Trustees may in the execution of any of the trusts of this Deed or in the exercise of any of the powers given to them by this Deed or by law sell property or lend money to or buy property or borrow money from or carry out any other transaction with the trustees of any other trust or the executors or administrators of any estate notwithstanding that the Trustees or any of them are or is the same person as those trustees, executors or administrators or any of them and where the Trustees are the same persons as those trustees, executors or administrators the transaction shall be binding on all persons

then or thereafter interested under this Deed though effected and evidenced only by an entry in the accounts of the Trustees.

- 12. IN** the professed execution of the trusts and powers hereof no Trustee shall be liable for any loss to the Trust Fund arising by reason of the failure depreciation or loss of any investments made in good faith or for the negligence or fraud of any agent employed by him or by any other Trustee hereof although the employment of such agent was not strictly necessary or expedient or by reason of any mistake or omission made in good faith by any Trustee hereof or by reason of any other matter or thing except wilful and individual fraud or wrongdoing on the part of the Trustee who is sought to be made liable.
- 13. THE** Trustees shall keep proper accounts and proper records in relation to accounts and shall prepare in respect of each period of account a statement of accounts in such form as the Secretary of State may direct and shall arrange for the accounts to be audited in such manner as the Secretary of State may direct and shall make to the Secretary of State within a period to be specified by him at the end of each period of account a report on the performance of their functions during that period and to include in that report a copy of the statement of accounts prepared in respect of that period in accordance with this clause and any report made by the auditors on the statement or on the accounts. In this clause "period of account" means the period beginning with 1 February 2004 and ending with 31<sup>st</sup> March 2004 and any subsequent period of twelve months ending with the 31<sup>st</sup> March in any year.
- 14. THE** Trusts, powers and provisions of this Deed may at any time or times be varied or terminated by Deed during the Specified Period by the Secretary of State who may in his complete discretion direct the Trustees to dispose of the Trust Fund as he thinks fit.

## Appendix 2 Details of Bond Calls and their effects,

<i>Licence Holder</i>	<i>Date Bond Called</i>	<i>Licensed Passengers</i>	<i>Licensed Revenue</i>
			<i>£'000</i>
Wazobia Travel Ltd	07 Apr 04	425	161
Orama Travel Ltd	16 Jun 04	2,955	1,195
Corporate Travel International Ltd	24 Jun 04	1,935	1,260
Cyberes Systems Ltd	24 Jun 04	35,672	13,379
Wentworth Travel Ltd	04 Aug 04	414	447
Fly Elite Ltd	19 Aug 04	10,093	2,780
Travelscene Ltd	20 Aug 04	15,004	5,333
Unitours Travel Ltd	23 Sep 04	269	70
Concept Express Ltd	23 Sep 04	2,500	740
Golden Sun Holidays Ltd	23 Sep 04	186,500	61,621
Airglobe Holidays Ltd	23 Sep 04	30,500	11,175
Euro Cities Ltd	25 Oct 04	1,120	168
Peopleschoice Holidays Ltd	16 Nov 04	160	80
APA Travel Service Ltd	01 Mar 05	2,560	820
Pandora World Travel Ltd	17 Mar 05	6,838	1,997
Ghana Travel Ltd	23 Mar 05	2,180	1,249
<b>Total</b>	<b>14</b>	<b>299,125</b>	<b>95,953</b>

### NOTES

- 1 The administration of the cases above may not have been completed. Administration costs which were incurred in paying passengers' refunds have been included in the Cost of Refunds.
- 2 The figures for total expenditure and any call on the Air Travel Trust include amounts already spent plus estimated further expenditure.
- 3 Where a call on the Air Travel Trust is indicated, this is the difference between expected total expenditure and available bond monies. The call on the Air Travel Trust may include the expenditure of accrued interest.
- 4 The above totals may not agree to the sum of the figures shown in the table due to rounding differences.

## April 2004 – March 2005

<i>Bond Amount</i>	<i>Number Repatriated</i>	<i>Cost of Repatriation</i>	<i>Number Refunded</i>	<i>Cost of Refunds</i>	<i>Total Expenditure</i>	<i>Call on Air Travel Trust</i>
<i>£'000</i>		<i>£'000</i>		<i>£'000</i>	<i>£'000</i>	<i>£'000</i>
25	0	0	2	2	2	0
179	0	0	350	143	143	0
1,903	0	0	338	302	302	0
Joint bond }						
79	13	11	40	60	71	0
360	271	27	1,023	300	327	0
809	300	20	1,500	521	541	0
23	0	0	591	203	203	180
120	45	25	85	34	59	0
9,799	10,500	3,200	12,000	4,500	7,700	0
Joint bond }						
38	0	0	350	110	110	72
20	4	1	100	41	42	22
95	1	1	620	114	115	20
200	0	0	510	114	114	0
321	500	125	4,460	441	566	244
<b>11,261</b>	<b>11,634</b>	<b>3,409</b>	<b>21,969</b>	<b>6,885</b>	<b>10,294</b>	<b>538</b>



## Appendix 3 Historical Movement of Reserve Fund Against ATOL Turnover

Year ended 31 March	Turnover £'m	Passengers '000	Bonds called during year	Calls on reserve fund during year £'m	Total fund at year end £'m	Calls as % of turnover	Calls as % of fund at start of year	Fund as % of all licensed turnover
1979	574	4,173	2	0.08	14.78	0.01		2.57
1980	813	5,304	2	0.02	16.10	0.00	0.14	1.98
1981	1,200	6,165	2	0.00	18.05	0.00	0.00	1.50
1982	1,488	6,662	9	3.02	15.64	0.20	16.73	1.05
1983	1,595	7,067	11	3.10	16.61	0.19	19.82	1.04
1984	1,893	7,938	9	0.58	19.44	0.03	3.49	1.03
1985	2,004	8,623	20	1.91	19.52	0.10	9.83	0.97
1986	2,123	8,662	18	1.36	22.10	0.06	6.97	1.04
1987	2,406	9,849	8	2.20	22.75	0.09	9.95	0.95
1988	3,118	12,598	16	1.23	23.18	0.04	5.40	0.74
1989	3,629	14,490	9	0.28	23.44	0.01	1.21	0.65
1990	3,704	13,982	21	0.40	23.71	0.01	1.70	0.64
1991	3,807	13,083	22	11.61	26.70	0.30	48.95	0.70
1992	3,253	10,110	16	0.73	5.01	0.02	2.75	0.15
1993	4,436	13,575	24	6.66	9.84	0.15	132.83	0.22
1994	5,180	14,528	20	1.58	8.82	0.03	16.07	0.17
1995	5,966	16,678	23	3.51	5.65	0.06	39.77	0.09
1996	6,874	18,812	31	4.10	1.87	0.06	72.65	0.03
1997	8,318	22,176	26	7.60	(5.26)	0.09	405.69	(0.06)
1998	9,426	25,673	21	0.36	(5.30)	0.00	(6.76)	(0.06)
1999	11,211	26,284	20	2.00	(7.39)	0.02	(37.73)	(0.07)
2000	11,982	27,824	17	0.31	(8.03)	0.00	(4.20)	(0.07)
2001	13,155	29,675	12	0.25	(8.96)	0.00	(3.15)	(0.07)
2002	13,881	30,723	23	0.40	(8.30)	0.00	(4.44)	(0.06)
2003	14,766	32,157	9	0.45	(9.09)	0.00	(5.43)	(0.06)
2004	14,750	30,464	18	0.29	(9.66)	0.00	(3.13)	(0.06)
2005	14,870	30,661	14	0.54	(10.65)	0.00	(5.57)	(0.07)
2006	15,340	30,447						

### NOTES

1. Turnover and Passenger figures represent the total value and number of holidays/flights authorised by all Air Travel Organisers' Licences in force at the start of the year. The figures exclude all trade sales between ATOL holders.
2. Calls on the Reserve Fund are retrospectively adjusted figures indicating the cost of failures occurring during each year. The figure for the Total Fund at year end is taken from the Air Travel Trust accounts and thus incorporates provisions based on estimates at the time of audit; figures are not adjusted retrospectively to show actual expenditure.
3. Calls as % of licensed turnover uses the base of turnover in the same year as the calls. Fund as % of licensed turnover applies the Fund at each year end to the turnover licensed for the next year.
4. The Fund was originally managed by The Air Travel Reserve Fund Agency. Since 1986 it has been managed by the Air Travel Trust Fund.