

Air Travel Trust

Report and Accounts



31 March 2008

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Air Travel Trust
CAA House
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WC2B 6TE

18 August 2008

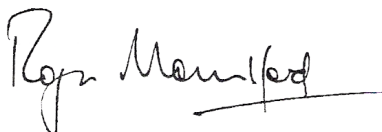
Rt. Hon. Ruth Kelly MP
Secretary of State for Transport
Great Minster House
76 Marsham Street
London SW1P 4DR

Dear Secretary of State

I submit herewith the report and accounts of the Air Travel Trust for the year ended 31 March 2008.

The Trust has been in deficit since 1996, and this year the total deficit rose by £1 million to just over £21 million. Expenditure on meeting claims was substantially lower than in the previous year and the Trust benefited from recoveries of prior advances. The failure of 12 companies during the year resulted in calls on the Trust, which totalled £374,814.

The Trustees welcome the introduction of the ATOL Protection Contribution from 1 April 2008. The establishment of new facilities to support the Trust comes at a time of increasing instability in financial markets, despite which I am pleased to report that all the planned provisions to support the APC structure were successfully implemented. The Trustees are grateful for the support and hard work of the CAA, Government, travel industry and financial institutions to bring the APC and the necessary supporting infrastructure into place within the planned timescale. The new arrangements enable the Trust to operate a new protection system that is both effective for travellers and less burdensome on the travel industry.



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

Industry Representative

Mr J Cox OBE

Officials

Mr M Rayner Secretary
Mr S Gregory Assistant Secretary

Bankers

Barclays Bank plc
1 Churchill Place
London E14 5HP

Bank of Scotland plc
38 Threadneedle Street
London EC2P 2EH

Auditors

Deloitte & Touche LLP
Crawley
West Sussex
United Kingdom

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Report of the Trustees

Constitution and Terms of Reference

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 Trustees are all Board Members and officials of the Civil Aviation Authority, appointed ex officio. The Trustees met nine times during the year – six times in 2007 and three times in 2008.

The terms of reference of the Trust are contained in the Trust Deed, which is at Appendix 1 of this report. The Trust Deed was varied on 18 March 2008 to reflect the introduction of the ATOL Protection Contribution scheme.

Two of the Trustees, Roger Mountford and Richard Jackson, are also members of the Air Travel Insolvency Protection Advisory Committee (ATIPAC). This committee provides advice to the CAA, the Trustees of the Air Travel Trust and the Secretary of State for Transport on the financial protection arrangements for air travellers and customers of air travel organisers. It includes key travel trade representatives, consumer representatives, independent members and members appointed by the CAA. The Chairman of ATIPAC, John Cox, attends meetings of the Air Travel Trust as an industry representative.

Implementation of ATOL Protection Contributions (APC)

The Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007 came into effect in January 2008 providing the necessary powers to enable the Air Travel Trust to collect contributions from ATOL holders, based on £1 for every passenger booked under an ATOL.

The first contributions were made during the current reporting period. These contributions relate to the period commencing 1 April 2008 and have been deferred in the attached financial statements. ATOL holders will contribute to the Fund on a monthly, quarterly or annual basis dependent on the size of their licence authorisation.

Air Travel Trust Structure

From 1 April 2008 the ATT put in place new financing arrangements to meet the new demands on the Fund, which arise from the removal of ATOL bonding for the majority of ATOL holders. In future the ATT will be the first line in the provision of finance in the event of an ATOL failure in most instances.

The facility with Bank of Scotland plc was replaced on 1 April 2008 with a five year £60 million credit facility with Barclays Bank plc, reducing by £10 million at the end of the first year. This facility is supported by a £31 million Government guarantee in the first year, which will reduce to nil over a three year period to 31 March 2011.

In addition, a £300 million insurance policy has been placed with AIG UK Limited (£220 million) and Axis Specialty Ltd (£80 million) to provide the ATT with access to funds in the event of the failure of a large ATOL holder(s) where costs arising from refunds and repatriation exceed £50 million in a year.

The agreement with the CAA detailing the work it is able to undertake on behalf of the ATT and the Air Travel Trust Fund Payment Policy were both revised to reflect the new structure. On behalf of the Trustees, the CAA has been negotiating new credit card agreements with the Association for Payment Clearing Services (APACS). The new agreements determine the split

of liabilities between the ATT and credit card acquirers following a failure and mirror the previous arrangements prior to the introduction of the APC. Interim agreements were signed by four major merchant acquirers with final agreements due to be in place later this year.

Review of the Year

The Trust incurred expenditure of £374,814 on failures during the year. The Trust has benefited from the release of amounts provided in prior years, amounting to £655,927, where the final calls on the Trust were lower than initially anticipated. Interest payments and bank charges amounted to £1,273,901. Liquidation dividends and settlements received amounted to £215,191 resulting in the overall deficit increasing to £21,060,519 at the year end.

Due to the protection afforded by ATOL and the ATT, 1,650 passengers were able to complete their holiday and return home after their travel company had failed, whilst a further 20,771 were refunded advance payments, having been unable to travel.

Twenty five ATOL holders failed in the year to 31 March 2008. 12 of those failures have resulted in calls on the Trust. The following table sets out the details of the two failures that led to significant calls on the Trust.

Licence Holder	Date Bond Called	Bond Amount	Total Expenditure	Call on Air Travel Trust
		£	£	£
Oasis Tours Ltd	26 Nov 2007	22,000	112,000	90,000
Go4 Hajj & Umrah Tours Ltd	22 Jan 2008	22,371	229,642	207,271

The main call on the Trust was caused by the failure of Go4 Hajj & Umrah Tours Ltd. The CAA has made formal demand on all guarantees held in relation to this company.

Full details of all bonds called are at Appendix 2.

Acknowledgements

The Trustees are grateful to the CAA for the continued administrative support and secretariat services provided during the year. They would also like to thank the CAA for the work of its staff relating to the introduction of the APC.

Report of the Auditors

Independent Auditors' Report to the Secretary of State for Transport and the Trustees of the Air Travel Trust ('The Trustees')

In accordance with our engagement letter dated 23 April 2008 we have audited the non-statutory financial statements of the Air Travel Trust for the year ended 31 March 2008, which comprise the fund account, the reconciliation of movements in the fund account, the balance sheet and the related notes 1 to 7. These financial statements 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 15 of the Trust Deed dated 5 January 2004, as amended by Deeds of Variation dated 4 January 2005 and 18 March 2008 ('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 and Auditors

Clause 15 of the Trust Deed requires the Trustees to prepare financial statements for each financial year. The Trustees have prepared the financial statements in accordance with United Kingdom Accounting Standards (United Kingdom Generally Accepted Accounting Practice).

The Trustees consider that in preparing these financial statements, 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 financial statements 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.

Our responsibility is to audit the financial statements in accordance with International Standards on Auditing (UK and Ireland). We report to you our opinion as to whether the financial statements give a true and fair view, in accordance with the relevant financial reporting framework, 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 financial statements, 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 audit opinion

We conducted our audit in accordance with International Standards on Auditing (UK and Ireland) 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 financial statements. It also includes an assessment of the significant estimates and judgements made by the Trustees in the preparation of the financial statements, 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 financial statements 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 financial statements.

Opinion

In our opinion:

- the financial statements give a true and fair view of the state of the Trust's affairs as at 31 March 2008 and its income and expenditure for the year then ended;
- the financial statements 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; and
- the information given in the Trustees' report is consistent with the financial statements.

Deloitte & Touche LLP
Chartered Accountants and Registered Auditors
Crawley
West Sussex
United Kingdom
18 August 2008

NOTE: The maintenance and integrity of the Civil Aviation Authority's website is the responsibility of the Board members of the Civil Aviation Authority. The work carried out by the auditors does not involve consideration of these matters and, accordingly, the auditors accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the website. Legislation in the United Kingdom governing the preparation and dissemination of the financial statements may differ in other jurisdictions.

Fund Account

Air Travel Trust

Fund Account for the Year Ended 31 March 2008

	Note	Year to 31.3.08	Year to 31.3.07
INCOME		£	£
Liquidation dividends and settlements	2	215,191	240,233
		<u>215,191</u>	<u>240,233</u>
EXPENDITURE			
Compensation claims – release of provision/(charge)	3	281,113	(3,586,818)
Audit and legal expenses	4	(227,670)	(5,150)
Loan interest and bank charges		(1,273,901)	(881,099)
		<u>(1,220,458)</u>	<u>(4,473,067)</u>
NET DECREASE IN FUND FOR THE YEAR		<u>(1,005,267)</u>	<u>(4,232,834)</u>
RECONCILIATION OF MOVEMENTS IN THE FUND ACCOUNT			
Fund at beginning of year		(20,055,252)	(15,822,418)
Net decrease in fund for the year		(1,005,267)	(4,232,834)
FUND AT END OF YEAR		<u>(21,060,519)</u>	<u>(20,055,252)</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.

Balance Sheet

Air Travel Trust Balance Sheet as at 31 March 2008

	Note	31.3.08	31.3.07
ASSETS		£	£
Cash		147,431	1,752
Settlements Due		–	138,482
		<u>147,431</u>	<u>140,234</u>
CREDITORS	5		
Compensation claims outstanding		(122,962)	(759,647)
Bank loans		(20,606,715)	(19,336,053)
Loan interest and other creditors		(329,773)	(99,786)
Deferred ATOL Protection Contribution income		(148,500)	–
		<u>(21,207,950)</u>	<u>(20,195,486)</u>
NET LIABILITIES		<u>(21,060,519)</u>	<u>(20,055,252)</u>
Represented by:			
FUND ACCOUNT		<u>(21,060,519)</u>	<u>(20,055,252)</u>

R P Mountford Trustee

C Jesnick Trustee

18 August 2008

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

Notes to the Accounts

Air Travel Trust Notes to the Accounts for the Year Ended 31 March 2008

1 Accounting Policies

a) Basis of preparation

The Trustees have prepared the financial statements in accordance with the terms of clause 15 of the Trust Deed (shown at Appendix 1) and directions from the Secretary of State as referred to therein.

The accounts are prepared under the historical cost convention and in accordance with United Kingdom Accounting Standards.

The Trustees have prepared the financial statements on a going concern basis. In adopting this basis, the Trustees have paid due consideration to the available banking facilities of the Trust and the guarantee provided by the Department for Transport of up to £31 million.

The accounting policies have been applied consistently in the current and previous year.

b) Expenditure

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

c) Income

Liquidation dividends and settlement income are accounted for on an accruals basis.

ATOL Protection Contributions are credited to income in the period when the passenger bookings are made.

2 Liquidation Dividends and Settlements

Liquidation dividends and settlements were received in respect of the following:

	Year to 31.3.08	Year to 31.3.07
	£	£
Sunrise Holidays Ltd	–	1,751
Sunrise Holidays Ltd (parent company guarantee)	90,191	88,482
Cruise Promotions Ltd (director’s guarantees)	125,000	150,000
	<u>215,191</u>	<u>240,233</u>

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:

	Year to 31.3.08 £	Year to 31.3.07 £
Action Travel Ltd	1,250	(16,000)
A1 (Leisure) Ltd	(47,791)	47,791
All in 1 Travel Ltd	–	10,000
Cruise Promotions Ltd	–	20,000
Dedicated Holidays Group Ltd	(132,065)	382,065
Finlandia Travel Agency Ltd	(3,934)	51,155
S. Garba t/a Startrek Travel	–	(4,000)
Ghana Travel Ltd	–	7,000
Jetline Express Worldwide Travel Ltd	–	(23,621)
Journeys East Ltd	(1,973)	–
Pleasurebeach Ltd	–	2,285
Raho Travel Ltd	–	244,082
R & K McDowell Ltd	(50)	–
Sky Tours & Travel Ltd	(146)	–
Specialist Tours Ltd	(15,579)	–
Sunrise Holidays Ltd	–	(1,764)
Tapestry Holidays Ltd	(448,450)	2,543,450
Travel World International Ltd	(2,341)	294,375
Tyche Tours Ltd	(258)	–
Vacation USA Ltd	(3,340)	–
Wadebay Ltd	–	30,000
<i>Failures since 31.3.07</i>		
Ajmair Travel Ltd	5,882	–
Colours of Oz Pty Ltd	14,027	–
Concept Holidays Ltd	3,707	–
Davies G.T.	1,269	–
E-4 Events Ltd	19,544	–
Go4 Hajj & Umrah Tours Ltd	207,271	–
Going Abroad Travel Ltd	3,614	–
Leisure Direction Ltd	8,653	–
Mauri Travel (UK) Ltd	10,307	–
Multidean Ltd	3,365	–
Oasis Tours Ltd	90,000	–
Travel Linx Ltd	5,925	–
	<u>(281,113)</u>	<u>3,586,818</u>

4 Audit and Legal Expenses

	Year to 31.3.08	Year to 31.3.07
	£	£
Audit Fees	5,880	5,150
Legal Expenses	221,790	–
	<u>227,670</u>	<u>5,150</u>

The Trust had no employees during the year (2007: 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 was provided by the Civil Aviation Authority at nil cost to the Trust (2007: nil).

The Trust incurred legal fees securing the insurance and banking facility arrangements to support the introduction of the APC, and recovering monies due.

5 Creditors

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

The loan facility at the balance sheet date was provided under a revolving credit agreement with Bank of Scotland plc. The loan fell due for rollover on 1 April 2008.

The agreement with Bank of Scotland plc ceased to be used from 1 April 2008 and has been replaced by a loan facility with Barclays Bank plc ('Barclays'), whereby Barclays has provided lending facilities to the Trust totalling £60 million under various facility agreements dated 18 March 2008.

The principal loan agreement is provided under two facilities. Facility A amounts to £31 million at 1 April 2008, decreasing to £25 million on the first anniversary of the arrangement, £15 million on the second and £nil on the third. Facility B amounts to £27 million at 1 April 2008, decreasing to £23 million on the first anniversary of the arrangement, increasing to £33 million on the second and £48 million on the third. These arrangements expire in March 2013.

Barclays have also provided secondary facilities amounting to £2 million.

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 secured by a Government guarantee of up to £31 million.

6 Ultimate Controlling Party

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

7 Post Balance Sheet Events

Since the balance sheet date and up to 14 August 2008, there have been 14 failures of holders of Air Travel Organisers' Licences. Eight failures are expected to result in calls on the Trust, of which two are significant. The anticipated calls on the Trust from the failures of Flair Holidays Ltd and A. Ogunseitan t/a Ghana Tours are approximately £210,000 and £498,000 respectively.

Appendix 1

Text of the Trust Deed

CONFORMED COPY OF AIR TRAVEL TRUST DEED DATED 5 JANUARY 2004 AS
AMENDED BY DEEDS OF VARIATION DATED 4 JANUARY 2005 AND
18 MARCH 2008

WHEREAS:-

- (A) A fund known as the Air Travel Reserve Fund (“the Fund”) was established in 1975 to help repatriate and meet claims for losses and liabilities incurred by passengers and customers of failed air travel operators.
- (B) In 1986, the Fund was wound up and its assets were transferred to a trust known as the Air Travel Trust set up pursuant to a Deed dated 28 January 1986 (“the 1986 Deed”) to perform the same function.
- (C) The Secretary of State now intends to declare new trusts under which the same function will be performed by a trust which will also be known as the Air Travel Trust.
- (D) The parties hereto have agreed that notwithstanding the matters set out above -
 - (i) any guarantee relating to borrowings by the Air Travel Trust under the 1986 Deed shall not be affected but shall continue to apply as if the same related to the Air Travel Trust as constituted by this present Deed,
 - (ii) any other right, privilege, obligation or liability acquired, accrued or incurred under the 1986 Deed shall continue as if acquired, accrued or incurred under this present Deed, and
 - (iii) any investigation, legal proceeding or remedy in respect of any such guarantee, right, privilege, obligation or liability shall not be affected but shall continue to apply as if the same related to the Air Travel Trust as constituted by this present Deed.
- (E) This Deed of Trust was amended by Deed of Variation dated 4 January 2005.
- (F) This Deed of Trust is further amended by a Deed of Variation dated 18 March 2008. These variations were brought about in part to give effect to changes required after the coming into force of the Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007 made pursuant to Section 71A of the Civil Aviation Act 1982 (hereinafter called “the 1982 Act”).

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 1982 Act to hold a 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) “Failed Licence holder” means an air travel organiser:-
 - (a) who, in the reasonable opinion of the Civil Aviation Authority (“the CAA”)
 - (i) is insolvent; or

-
- (ii) cannot or will not be able to meet in whole or in part its obligations to its Customers; and/or
 - (iii) will fail to meet in whole or part its obligations to its Customers;
 - and
 - (b) in respect of whom an authorised signatory of the CAA has signed a Notice of Licence holder failure; and
 - (c) a copy of that Notice has been placed on the CAA's Register of Failed Licence Holders which is available for inspection at CAA House, 45-59 Kingsway, London, WC2B 6TE between 9am and 4pm Monday – Friday other than Bank Holidays.
- (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 a Licence;
- (5) "Licence" means a licence which an air travel organiser is required to hold pursuant to any regulations for the time being in force under the 1982 Act;
- (6) "Secretary of State" means the Secretary of State for Transport for the time being;
- (7) "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;
- (8) "Trustees" means
- (a) 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) and
 - (b) such additional persons as may be appointed pursuant to clause 9 hereof.

The Original Trustees are the holders of the Offices listed in sub-paragraph (a) above as at the date hereof. "Trustee" means any one of the "Trustees";

- (9) "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,
 - (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 including (but without limitation) all contributions paid by air travel organisers pursuant to regulations made under section 71A of the 1982 Act;
 - (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 Failed Licence holder 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 Failed Licence holder 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 Failed Licence holder of any of his obligations towards the customer under or in connection with a licensable transaction; and
 - (c) in meeting any expenses incurred in setting up and administering a scheme for the exercise of the powers in (a) and (b) above whether those expenses were incurred by the Trustees or by any agent acting on their behalf.

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

- (1) The said power may only be exercised if the Failed Licence holder held a 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) Although (subject to clause 5(3) below) the Trustees are entitled to apply all or any part of the Trust Fund for the purposes set out in clause 4(2), where a bond or other security has been provided by or on behalf of the Failed Licence holder in accordance with any regulations made under Section 71 of the 1982 Act, then the ultimate burden in respect of payments made under clause 4(2) shall be borne by the money received pursuant to such bond or security.

-
- (3) Where the Failed Licence holder had provided the CAA with a bond or other security, the Trustees shall not make any payment under clause 4(2) unless 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.
 - (4) 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;

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- (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 such rules and regulations and policy statements dealing with the management, administration, payment, application or distribution of the Trust Fund or any part thereof and with 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 or policy statements;
 - (7) Power to appoint, engage or retain such persons including without limitation, solicitors, accountants, brokers or any other agents as the Trustees may think fit or convenient to transact any business required to be done (including the receipt and payment of money) and any act in connection with such management, administration as is referred to in sub-clause (9) of this Clause), 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 even if the Trustees could transact that business by their own employees or personally.
 - (8) Power to investigate potential as well as actual failures of Licence holders;
 - (9) In addition to all statutory powers of delegation power to delegate all or any of the trusts powers and duties, and discretions vested in the Trustees hereunder for any period or periods (which may be renewed from time to time) or such terms as the Trustees think fit to any person or persons, and may grant powers of sub-delegation, and upon such terms (including the remuneration and the payment of the expenses of the delegatee or delegatees and including provision for the delegatees if more than one to exercise any such power or duty either jointly or jointly and severally) as the Trustees 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 reference to the opinion of the delegatee or delegatees.
 - (10) Power to enter into any arrangement or transaction or to make any payment with a view to keeping the business of a Failed Licence holder in operation for such period as the Trustees think fit with a view to providing or assisting in the provision of the carriage which the Failed Licence holder was to provide or was to arrange to be provided in accordance with his obligations under any licensable transaction and/or with a view to minimising potential losses, liabilities and expenses of the types referred to in clause 4(2) hereof;
 - (11) Power to appoint such persons as the Trustees may think fit or convenient to act in connection with such management or administration 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;
 - (12) Power to delegate from time to time to any such persons all or any of the powers and duties of the Trustees hereunder;

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- (13) 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;
 - (14) Power to issue or grant any mortgage, charge lien or other security over all of any part of the property or assets of the Air Travel Trust (whether present or future), and also by such means to secure and guarantee the performance by the Trustees of any obligation undertaken by them;
 - (15) Power to undertake interest rate and currency swaps, options, swap option contracts or other financial instruments including hedging agreements and derivatives of any kind; and
 - (16) 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(8) 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.
- (3) The Secretary of State may by deed appoint up to a maximum of 3 trustees in addition to the office holders referred to in clause 2(8) hereof.
- (4) Upon a person becoming a Trustee in accordance with the provisions of clause 9(1) or 9(2) hereof, the other Trustees shall have power to vest the Trust Fund in the new Trustee so that thereafter -
 - (a) the new Trustee shall have all the same powers and discretions as are hereby conferred on the Trustees in relation to the Trust Fund and the income thereof,
 - (b) subject to paragraph (a) of this sub-clause all property held by such new Trustees and all property retained by the Trustees shall remain subject to the same trusts powers and provisions as if no new Trustees had been appointed.
- (5) A person shall immediately cease to be a trustee in any of the following circumstances:
 - (a) such person is, or is deemed for the purposes of any applicable law to be, unable to pay its debts as they fall due or insolvent;
 - (b) such person admits its inability to pay its debts as they fall due;
 - (c) such person suspends making payments on any of its debts or announces an intention to do so;

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- (d) such person commits an act of bankruptcy;
 - (e) by reason of actual or anticipated financial difficulties, such person begins negotiations with any creditor for the rescheduling or restructuring of any of its indebtedness; or
 - (f) any of such person's indebtedness is subject to a moratorium,
 - (g) a certificate is issued for the summary administration of such person's estate;
 - (h) such person enters into any composition, scheme, individual voluntary arrangement or other arrangement with its creditors or has an interim order made in relation to him or her;
 - (i) a bankruptcy order is made or such person is otherwise adjudicated bankrupt (which includes any order made in relation to the Air Travel Trust under Part 64.2 of the Civil Procedure Rules);
 - (j) a receiver, receiver and manager, judicial manager, trustee in bankruptcy, nominee, supervisor, official manager or similar person is appointed in respect of it or any of its assets;
 - (k) any step is taken which could result in any of the events referred to in sub-paragraphs (g) to (l) above or a statutory demand is served on such person with respect to any of the matters referred to in sub-paragraphs (g) to (l) above which is not discharged within fourteen days; or
 - (l) any other analogous step or procedure is taken in any jurisdiction,

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 anything done or caused by them to be done in the exercise or purported exercise of the powers vested in them herein or by reason of 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 failure to comply with any duty of care applicable to him 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. NO decision of or exercise of a power by the Trustees shall be invalidated or questioned on the ground that the Trustees or any of them had a direct or indirect interest in such decision or in the exercise of the power.

14. WITHOUT prejudice to all indemnities conferred upon the Trustees generally by law the Trust Fund will indemnify the Trustees and each of them and their respective personal representatives against all actions, claims, demands, costs and expenses arising or incurred by them as a result of anything done by them in the exercise or purported exercise of the powers vested in them herein.

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- 15. 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 31st March 2004 and any subsequent period of twelve months ending with the 31st March in any year.
- 16. 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 Tour Operator Bonds Called, April 2007 – March 2008

Licence Holder	Date Bond Called	Licensed Passengers	Licensed Revenue
			£'000
MAS Travel Services Ltd	16 Apr 2007	180	50
Portugala Holidays Ltd	09 May 2007	445	226
First Solution Money Transfer Ltd	10 Jul 2007	231	95
Travel Adventures Ltd	31 Jul 2007	489	140
Ajmair Travel Ltd	02 Aug 2007	255	110
Davies G.T.	10 Aug 2007	40	69
Sky Value Ltd	13 Aug 2007	255	72
Concept Holidays Ltd	16 Aug 2007	490	345
Travel Linx Ltd	20 Aug 2007	562	191
Fly Brits Ltd (incl. Vision Holiday Ltd)	07 Sep 2007	12,600	2,500
Perfect Choice Holidays Ltd	14 Sep 2007	6,645	2,210
Escape Holidays Ltd	21 Sep 2007	500	179
Flights International (Southend) Ltd	16 Oct 2007	185	85
Holiday Mediterranean Ltd	17 Oct 2007	1,630	770
Mauri Travel (UK) Ltd	06 Nov 2007	80	125
E-4 Events Ltd	26 Nov 2007	150	30
Oasis Tours Ltd	26 Nov 2007	499	175
Travelscope Holidays Ltd	21 Dec 2007	42,110	30,320
Going Abroad Travel Ltd	11 Jan 2008	488	164
Go4 Hajj & Umrah Tours Ltd	22 Jan 2008	83	89
Multidean Ltd	23 Jan 2008	331	150
Nickel Enterprises Ltd	30 Jan 2008	872	917
Leisure Direction Ltd	05 Feb 2008	7,500	2,150
Colours of Oz Pty Ltd	11 Feb 2008	175	618
Total		76,795	41,779

Bond Amount	Number Repatriated	Cost of Repatriation	Number Refunded	Cost of Refunds	Total Expenditure	Call on Air Travel Trust
£'000		£'000		£'000	£'000	£'000
10	0	0	10	5	5	0
25	0	0	86	22	22	0
10	0	0	12	2	2	0
27	0	0	2	1	1	0
13	0	0	39	19	19	6
10	6	12	0	0	12	1
10	0	0	3	1	1	0
52	76	38	30	17	55	4
20	0	0	57	25	25	6
758	793	463	385	159	622	0
486	600	191	1,260	202	393	0
68	10	3	64	18	21	0
11	0	0	28	7	7	0
88	0	0	32	22	22	0
16	0	0	10	26	26	10
10	0	0	8	30	30	20
22	0	0	242	112	112	90
4,800	3	10	16,000	3,148	3,158	0
0	0	0	10	4	4	4
22	0	0	69	230	230	207
22	0	0	74	26	26	3
92	0	0	27	38	38	0
315	160	10	2,200	314	324	9
155	2	6	123	163	169	14
7,040	1,650	732	20,771	4,589	5,321	374