

Title: Primary legislation to strengthen the ATOL scheme in order to partially implement the new Package Travel Directive (2015) IA No: DfT00375 RPC Reference No: RPC16-DfT-3284(2) Lead department or agency: Department for Transport	Impact Assessment (IA)			
	Date: 06/01/2017			
	Stage: Final			
	Source of intervention: EU			
	Type of measure: Primary legislation			
Contact for enquiries: Stephen Powton (stephen.powton@dft.gsi.gov.uk)				
Summary: Intervention and Options			RPC Opinion: GREEN	

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
£-15.51m	£-11.92m	£1.2m	Not in scope	Non qualifying provision

What is the problem under consideration? Why is government intervention necessary?

The statutory Air Travel Organisers' Licensing (ATOL) scheme protects consumers when a travel company becomes insolvent. It is a key mechanism in which the existing Package Travel Directive (1990) is implemented in the UK. Legislative change is necessary to ensure that the ATOL scheme complies with the new EU Package Travel Directive (2015), when it is brought into force in 2018. The European Commission believes that intervention is necessary to reduce consumer detriment in the holiday travel market. This stems from the information asymmetry that exists in the market, coupled with the fact that money is taken far in advance of delivery of the holiday, and the difficulties consumers face in securing refunds from an insolvent company. The UK Government will need to transpose the new Directive into UK law by 1 January 2018.

What are the policy objectives and the intended effects?

The policy objectives are to strengthen the ATOL scheme and bring it into line with the Package Travel Directive (2015) in a way that ensures it is compliant with EU legislation (No Gold plating). The intended effects are to change the coverage of ATOL to make cross-border trade easier for businesses, make information on insolvency protection available for consumers and ensure they receive effective protection when purchasing from an ATOL protected company established in the UK. We also intend to exempt general agreements for Business-to-Business sales from the ATOL scheme in line with the requirements of the new Directive.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1: Do nothing. This was considered as a policy option, however due to the potential for legal and financial challenge resulting from ATOL being misaligned with the new Package Travel Directive (PTD2) this was not selected.

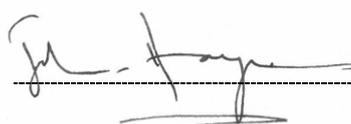
Option 2: Strengthening ATOL to be consistent with PTD 2015. This is the Do Minimum option which involves passing legislation to change the tax-raising power for ATOL which will be the focus of this impact assessment (No gold plating).

Option 2 is the preferred option as it is the only option that would achieve the objective of ensuring effective transposition of the new Directive in the UK by 1 January 2018.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: January/2023

Does implementation go beyond minimum EU requirements?		No		
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO₂ equivalent change in greenhouse gas emissions? (Million tonnes CO₂ equivalent)		Traded: NQ		Non-traded: NQ

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister:  Date : 09 February 2017

Summary: Analysis & Evidence

Policy Option 2

Description: Strengthening ATOL to be consistent with PTD 2015

FULL ECONOMIC ASSESSMENT

Price Base Year: 2016	PV Base Year: 2018	Time Period Years: 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -15.51

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	1		
High			
Best Estimate		6.7	2.1

Description and scale of key monetised costs by 'main affected groups'

There will be a one off familiarisation cost to business of £6.7 million. If the change in scope of the ATOL scheme results in more passengers being covered by the scheme there will be; a cost to businesses of an annual renewal of their ATOL and cost of the ATOL Protection Contribution (APC) (0.6 million); and, a small cost to the CAA of monitoring/renewal costs for these businesses. Due to a greater coverage of passengers there will be more pay outs from the Air Travel Trust Fund (ATTF) for operator failure (£0.2 million). If the change in scope of the ATOL scheme results in businesses being removed from the scheme there will be; a cost to the CAA through a loss of income through fewer ATOL licence renewals (£0.09 million) and a reduction in APC receipts to the ATTF (£1.2 million).

Other key non-monetised costs by 'main affected groups'

There may be some additional familiarisation costs to UK consumers who are not used to the chosen Member State insolvency protection scheme.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	1		
High			
Best Estimate			1.0

Description and scale of key monetised benefits by 'main affected groups'

If the change in scope of the ATOL scheme results in businesses being removed from the scheme there will be; a benefit to businesses no longer complying with the scheme through APC contribution and licence costs (Out of scope) and a small benefit to the CAA of no longer issuing these ATOL licences and ongoing monitoring/renewal costs. Due to a smaller coverage of passengers there will be less pay outs from the ATTF for operator failure (£0.35 million). If the change in scope of the ATOL scheme results in more passengers being covered by the scheme through European expansion there will be; a benefit to the CAA through an increase in income through more ATOL licence renewals (£0.06 million) and an increase in APC receipts to the ATTF (£0.6 million).

Other key non-monetised benefits by 'main affected groups'

Lower cross border barriers mean huge potential benefits to both businesses who wish to expand and sell into other Member States and businesses currently operating across Europe. Businesses will no longer need to comply with various insolvency protection schemes and can operate under one system.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
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The main risk arises from the change in scope of the ATOL scheme from the place of sale to the place of establishment. Due to the uncertainty of future business decisions, we have assumed a net migration of zero; such that businesses will not choose to set up a new place of establishment in the short run, this represents our central case. Two alternative scenarios have also been presented in the analysis as sensitivity tests, these represents just one view of a future reality based on our implicit assumptions. The actual costs and benefits will depend entirely on how business choose to operate under the new system.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	Score for Business Impact Target (qualifying provisions only) £m: N/A
Costs: £1.2m Benefits: £0.0m Net: £-1.2m	

1 Introduction

The Air Travel Organisers Licence (ATOL) is a statutory financial protection scheme managed by the Civil Aviation Authority (CAA) and funded by financial contributions made to the Air Travel Trust Fund (ATTF). Its purpose is to protect consumers buying package holidays including a flight and some 'flight only' sales from the insolvency of an ATOL licensed travel company. If a licensed firm goes out of business, the CAA can refund protected customers or ensure they can continue their holiday and return home (repatriate). The ATOL scheme partly implements the EU Package Travel Directive 1990 (PTD) in the UK, which places an obligation on companies selling package holidays to have insolvency protection in place.

The PTD and ATOL were both established to address consumer detriment in the travel market. This harm arises from a number of characteristics of the market; the time lapse between payment and delivery of the holiday; the lack of consumer awareness of the financial stability of holiday providers; and, the difficulty consumers face in getting a refund from an insolvent company. Consumers may experience both a financial loss from not receiving a refund or facing the cost of travelling home by another means, and the personal loss arising from the inconvenience of a cancelled holiday or from being stranded abroad.

Together the PTD and ATOL have provided an effective framework for regulating the industry for decades, however in recent years it has become apparent that they had become out of touch with changes in the travel market. In particular, the internet has become an increasingly important medium through which travel services are offered. The ATOL scheme was partially reformed in 2012 to ensure it was more capable of meeting the needs of the modern consumer. Further legislative change is now needed to strengthen ATOL and align it with the minimum mandatory requirements of the revised Package Travel Directive (PTD2), which was published in December 2015.

1.1 The ATOL Scheme and the Package Travel Directive

Without the existing regulation, the potential for consumer detriment in this market from the insolvency of a travel company is significant. Payment for holidays and flights is often made many months in advance of travel and before suppliers have to be paid, while barriers to entry can be low with little capital required. This gives rise to a real risk of businesses becoming insolvent between the payment for services and their delivery. If a travel company becomes insolvent while a holiday is in progress, consumers face the risk of being stranded abroad without accommodation or a flight home. This may be compounded where large numbers of other holiday makers are in the same position with limited airline capacity to repatriate them. In addition to the detriment to consumers, there would be large calls on the consular service of the Foreign and Commonwealth Office (FCO) from UK residents stuck abroad.

It was against this background that a statutory ATOL scheme was established in the UK in early 1970s, following the failure of a large travel operator. Insolvency protection for package holidays became a requirement of EU law from 1992 through the Package Travel Directive (PTD).

The ATOL scheme is broadly based around the following three functions: licencing by the CAA to sell travel arrangements that include a flight; an ATOL levy and reserve fund to finance the scheme; and the management of refunds and repatriation in the event of a failure.

ATOL Licensing by the CAA

Businesses selling air holiday packages and some third party sellers of flights in the UK are required by law to hold an ATOL. This allows the CAA to assess the risk of the business failing and take steps to ensure that adequate security is in place. An ATOL is only granted after the company has met CAA's licensing requirements, which can include both personal and financial fitness checks, and are carried out over the lifetime of the licence. There are different types of ATOL licence, which allow different ways of entering the scheme. This includes the standard ATOL and Small Business ATOL, which are managed by CAA, and Accredited Bodies, Franchises and Joint Administration Agreements, where some responsibilities are devolved to third parties. An overview of the different licences can be found on the CAA website¹.

The vast majority of ATOL protected bookings (around 95%) are arranged under a standard ATOL or a Small Business ATOL. The Small Business ATOL is open to businesses selling fewer than 500 flights or

¹ Overview of ATOL licences <https://www.caa.co.uk/ATOL-protection/Trade/About-ATOL/Choosing-the-right-ATOL/Overview-of-ATOL-licences/>

holidays a year. This is a relatively light touch approach which ensures an adequate degree of monitoring with a minimal administrative burden. For the largest businesses the CAA adopt more detailed financial monitoring, and can impose requirements, such as fresh capital or a bond, if there is a particular risk. New ATOL holders, regardless of size, are also required to provide a bond or other security as a condition of their licence in the first four years.

Airlines are excluded by law from the ATOL scheme, when they sell “flight only”, as they are subject to a separate EU licensing system, but are still required by the PTD to provide financial security for package holidays they sell. In practice a number of UK airlines have established subsidiary companies with an ATOL to sell package holidays.

Financing the ATOL scheme

Licensed businesses make contributions to the Air Travel Trust Fund (ATTF), which then pays out when a licensed business collapses. These are made through the ATOL Protection Contribution (APC), which is a £2.50 levy per passenger per booking. The Air Travel Trust fund has published its Financial Statements for the year ended 31 March 2016, reporting a surplus of £139 million. The fund is administered on behalf of the Air Travel Trust (ATT) by the Civil Aviation Authority². This is a public fund that is used in the event of operator failure (insolvency) to ensure consumer refunds and repatriation. Expenditure from the Funds is not a cost on business; payments to the fund through APC contributions are a cost to business.

For many years the ATTF did not have any income. It was operated as a reserve fund under the previous ATOL universal bonding model, to be called on in the event that the bonds held by businesses proved inadequate to repay or repatriate their customers. It had operated at a deficit since 1996. In 2008 the APC levy was introduced to replace the bonding model (except for businesses whose riskiness justified additional measures). The intention has been to gradually eliminate the deficit and build up a self-sustaining central fund that would be used to repatriate and meet refunds by customers of failed ATOL licence holders. This is consistent with Government policy that insolvency protection should be funded by the travel industry and its customers, rather than general taxpayers.

Managing failures of ATOL holders

Over the last five years, more than 60,000 people have been repatriated by the ATOL scheme and over 230,000 people have received refunds. The CAA manages most failures, and generally it increases its monitoring when it becomes concerned about a company’s financial position. This means that when a tour operator does formally collapse the CAA may begin repatriation immediately, if this is necessary. Repatriation is managed by obtaining booking records from the failed company and liaising with airlines and accommodation providers.

The Package Travel Directive

The Government is obliged under European law to ensure that the EU Package Travel Directive is effectively implemented in the UK. The Directive introduces a range of consumer protections, which apply across the travel sector. In particular it requires companies to provide evidence of security for refunds and costs of repatriation in the event of insolvency.

The first EU Package Travel Directive (90/314/EC) (“PTD1”) was transposed into UK law through the Package Travel, Package Holidays and Package Tours Regulations (S.I. 1992/3288) (“PTR”). These regulations require businesses selling package holidays to be able to provide evidence of protection for prepayments and repatriations in the event of its insolvency. While air package travel organisers must use the ATOL licensing scheme summarised above, non-air package travel vendors have a variety of options (including bonding, insurance and trust accounts) available to them to show compliance.

PTD1 also requires an organiser to fulfil the entire package when there is a failure involving someone else who is providing a component of the package. For instance, if a package is sold that involves a flight component and the airline fails, the package travel organiser is required to arrange an alternative flight or pay compensation.

In 2013 the European Commission commenced work to reform PTD1 and bring it up to date with developments in the travel sector. This process completed with the publication of a revised Package Travel

² <https://www.caa.co.uk/ATOL-protection/Air-travel-trust/About-the-Air-Travel-Trust/>

Directive (PTD2) on 11th December 2015. The UK Government will need to transpose PTD2 into UK law before 1 January 2018.

The PTD2 includes the following elements, which reinforce the ATOL reform measures already taken:

- **Scope and definitions** – a broader and clearer definition of a “package” will provide greater protection and clarity and help to close down avoidance in the ATOL scheme. Protection extended to cover not only traditional package holidays, but also to offer protection to consumers who book other forms of combined travel. It covers 2 different sorts of travel combinations which amount to an enhanced definition of “package”: Pre-arranged packages³ and customised packages⁴.
- **Stronger information provisions** so that consumers receive clear information, before and after booking about the level of protection.
- **Linked travel arrangements** - if the consumer, after having booked one travel service on one website, is invited to book another service through a targeted link or similar, the new rules offer some protection – provided that the second booking is made within 24 hours

The first of these amounts to an enhanced definition of “package” and all obligations in PTD2 apply to package organisers. Linked travel arrangements are slightly different in that not all of the PTD2 obligations are applicable - only the disclosure provisions and limited insolvency protection obligations apply.

PTD2 also introduces a single market approach to insolvency protection, which will bring benefits for EU established businesses, but will require some changes to the ATOL scheme. At present, ATOL only applies to sales made in the UK. Under PTD2, EU-established companies will now be required to comply solely with the insolvency protection rules of the State in which they are ‘established’ as opposed to the ‘place of sale’. However businesses outside of the EU will be required to comply with different rules of each Member State in which they sell. To comply with the PTD2 the tax raising powers of ATOL need to be amended so that it can also apply when UK companies are selling to consumers in Europe. This would be a positive step for UK business, as it would allow them to trade across Europe without having to comply with insolvency protection rules in each Member State.

2 Rationale for Intervention

2.1 Consumer protection for the modern travel sector

The ATOL scheme, and the PTR more widely, are designed as a consumer protection measure. One of the biggest categories of household expenditure is recreation and culture; in 2011 the ONS found each household spent on average £17.10 a week on package holidays abroad and £1.70 on package holidays in the UK⁵. In the unlikely and unfortunate event of a travel company failure, holidaymakers are particularly vulnerable to cancellations in their travel and accommodation plans when they are abroad. In the absence of a consumer protection scheme, customers may incur significant costs to return back to the UK or to complete their holiday.

ATOL has existed for more than 40 years, and is a recognised consumer protection scheme, but there have been significant changes to the travel industry since it was originally set up. Technical innovation, in particular the introduction of the internet, opened up new ways of buying and selling holidays. It enabled travel companies to allow customers to ‘mix and match’ or ‘dynamically package’⁶ the components of a holiday in a way that often fell outside the traditional scope of PTD1 and ATOL. This saw ATOL sales as a share of all leisure flights fall from over 90% in 1998 to just under 50% in 2009.

This also resulted in a lack of clarity for consumers and industry, as to whether these types of bookings are ‘package holidays’ as defined in legislation, or are sales of separate holiday components falling outside the requirements for statutory insolvency protection. This has led to an inconsistent approach to insolvency protection, where some holidays are required to be covered by the ATOL scheme and the PTD, while other similar bookings have been sold without these protections. Even where an ATOL licence is held, not all bookings by that ATOL holder will be “licensable transactions” covered by an ATOL.

³ Ready-made holidays from a tour operator made up of at least 2 elements: transport, accommodation or other services, e.g. car rental.

⁴ Selection of components by the traveller and bought from a single business online or offline.

⁵ <http://www.ons.gov.uk/ons/rel/family-spending/family-spending/family-spending-2012-edition/sum-headlines.html>

⁶ Dynamic packaging is generally considered to be a method of selling holidays, whereby a consumer is able to build their own package holiday from a combination of travel components (e.g. flights, accommodation, and car rental) instead of purchasing a pre-defined package.

This gap in protection has led to consumer detriment as consumers buying a non-ATOL protected holiday often face the same risks from the insolvency of their travel company as those who have purchased an ATOL protected holiday. It has also led to confusion for the consumer in trying to understand whether a particular holiday has ATOL protection, both when booking and in the unlikely event of the failure of their travel company.

The gap in protection and clarity regarding ATOL protection was evident in a number of travel company failures, including XL Leisure Group in September 2008 and Goldtrail, Sun4U and Kiss flights in summer 2010.

In recent years, successive governments have recognised the need to strengthen the ATOL scheme to bring it into line with the new trade practices and provide clarity when customers book what appears to be a package holiday. This led to substantial reforms to the ATOL scheme in 2012 to make it easier for everyone to understand which holidays are covered, and to restore protection to what looks like a package holiday but fell outside the legal definition. The ATOL Regulations were changed on 30 April 2012, to extend the scope to include “Flight-Plus” arrangements⁷, and also to introduce ATOL Certificates and Agency Agreements to help improve clarity.

2.2 Compliance with EU law

The European Commission has also recognised the need to reform PTD1. PTD2 was agreed across Europe in December 2015, to ensure that consumer protection keeps pace with the modern travel sector and the use of the internet to book holidays. The UK has supported PTD2, as it is broadly consistent with our own ambitions for ATOL reform. The UK is a leader in this area, and in many ways PTD2 mirrors the level of protection already provided in the UK following the reforms in 2012.

2.3 ATOL scheme defined in law

Finally, the ATOL scheme is defined in law, and contributions to pay for it are enabled by primary legislation under the Civil Aviation Act (1982). Those contributions are classified by the Office for National Statistics as a tax. Any changes to the scheme which are necessary to implement EU obligations arising from PTD2 would normally be made through secondary legislation using powers in section 2(2) of the European Communities Act (1972). However, in this case, we have to amend the tax raising power in section 71(1) Civil Aviation Act (1982), to cover businesses “established in” the UK, as opposed to businesses directing sales in UK. We anticipate that primary legislation will be used for this which requires intervention from the Government.

The outcome of the EU referendum on 23 June will see the UK leave the European Union. Until we negotiate our exit, the UK remains a member state of the EU with all of the rights and obligations that this entails, including negotiating, implementing and applying EU legislation. The outcome of the negotiations for leaving the EU will determine the future arrangements that will apply, in relation to EU legislation, when the UK has exited the European Union. In the meantime there remains an obligation to transpose PTD 2015 into UK law by January 2018. If ATOL is to continue beyond 2017 as a means of complying with the PTD2, it will need to be strengthened. Only HM Government can intervene to achieve this.

3 Policy Objectives

The policy objectives are to strengthen the ATOL scheme and bring it into line with the Package Travel Directive (2015) in a way that ensures it is compliant with the minimum mandatory requirements of EU legislation. The intended effects are:

- To change the coverage of ATOL to make cross-border trade easier for businesses,
- Make information on insolvency protection available for consumers and ensure they receive effective protection when purchasing from an ATOL protected company established in the UK.

⁷ Flight-plus is a form of “dynamic packaging” where a business sells 1) a flight and 2) either accommodation or car hire, where 2) is within 24 hours of 1).

4 Scope of this impact assessment

This impact assessment attempts to quantify the potential impacts of passing the primary legislation to change the tax raising power of ATOL in order to implement the PTD2 by 1st January 2018. A number of secondary regulations on information provisions and business to business sales will also need to be laid to fully implement the new PTD2, however these will be covered in a separate impact assessment.

The scope of this impact assessment covers UK businesses and consumers only. The impact on Non UK businesses has been explored to give an indication of the overall impact of the new PTD2 on the ATOL scheme but these costs and benefits have been not included within the total cost and benefits estimates⁸.

Increased or reduced pay outs to the ATTF as a result of higher or lower passengers covered has also been considered. This cost/benefit has been transferred from other Member States protection systems which have either gained or lost responsibility for covering these failures. As non UK protection schemes are outside the scope of this impact assessment changes to ATTF pay outs as a result of change in passenger coverage has been considered a cost/benefit and not a transfer.

This impact assessment and completed consultation exercise considers the transposition of PTD2 into UK law, in so far as it influences the design of the ATOL scheme. It focusses solely on the insolvency protection related changes from PTD2 that affect the ATOL scheme and the travel companies that it is set up to cover. The Department for Business, Energy and Industrial Strategy (BEIS) has responsibility for the transposition of PTD2 as a whole. BEIS and DfT have undertaken a separate impact assessment and consultation covering the non-flight based travel sector and the wider requirements of the PTD2.

The consultation document also invited initial views on the potential direction for longer term reform, to ensure we are able to get the regulatory framework right in the future. The Government is not proposing any longer term changes at this stage, and as such this Impact Assessment does not consider proposals for ATOL reform, beyond what is required in PTD2.

In accordance with HM Treasury Green Book guidance, the policy is appraised over 10 year horizon and applies a discount rate of 3.5% per year on future cost and benefit streams. Costs and benefits are estimated in 2016 prices, with 2018 as the first year for present value calculations. All estimates are given in £ sterling.

The analysis presented in the IA takes a conservative view of costs and benefits. Our scenario analysis does not fit the NPV range presentation as outlined in the standard IA summary sheet template. Presenting the highest benefit from one scenario with the lowest cost of another scenario would be misleading as they are two mutually exclusive outcomes. Instead we have presented the two sensitivity tests alongside our best case central estimate within section 8.

5 Consultation

The Government ran a consultation exercise on modernising consumer protection in the package travel sector, with specific focus on the changes to the ATOL scheme. It sought views on strengthening ATOL to comply with the Package Travel Directive, but also to seek views on long-term ATOL reform. The exercise ran between 28th October and 24th November 2016, supplemented by three external stakeholder events. We received 61 responses to the consultation; these responses have been used when building the evidence base for this impact assessment.

⁸ Based on Green Book guidance and the Better Regulation Framework:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220541/green_book_complete.pdf (Sec 5.25)

6 Description of options considered

DfT have been working closely with BEIS and the CAA to consider the new requirements of PTD2 and the changes that would need to be made to ATOL, to ensure it remains an effective way of transposing the new Directive by January 2018 (Option 2). This has also been considered against a 'Do nothing' scenario where the scheme remains unchanged (Option 1).

Option 1: Do nothing. Under this option, there would be no change to the ATOL scheme in order to implement PTD2. The ATOL scheme, its structure and the regulations would remain the same as now. This would mean that the scheme would not be fully or optimally aligned with the new requirements of the PTD2. It would carry a significant potential for legal challenge and infraction cost from not complying with EU legislation. It would also lead to detriment to both consumers and businesses, if they are unable to access the potential benefits that the PTD2 has been designed to bring. It is for these reasons that this option has not been selected for further consideration.

Option 2: Strengthen ATOL to be consistent with PTD2. This option involves passing legislation to ensure the ATOL scheme and structure is adjusted as required to align with the requirements of PTD2. This would involve a mix of primary and secondary legislation. This option would enable ATOL to provide effective consumer protection within the new PTD2 regulatory framework, and it would be feasible to do so within the transposition timescales. It will also allow ATOL members and consumers to access the benefits that the PTD2 is designed to bring, while avoiding gold-plating.

Option 2 it is the only option that would ensure effective transposition of the new Directive in the UK by 1 January 2018 and is therefore the **preferred option**. This option therefore forms the basis of the Impact Assessment.

This approach, is also consistent with the longer term process of ATOL reform. In the longer term, ATOL may remain in its current form, or be used as a means of supporting transition to a longer term alternative approach.

Alternative options considered

One option considered through consultation was a transition to a market based approach by 2018. This was considered and ruled out during the policy making process. It is apparent that some of the more radical options, would require a longer period for industry, the market and regulators to adjust to. Moving to a fully market based system would remove the existing ATOL regulations and scheme, so that insolvency protection obligations arising from PTD2 are covered entirely in the market.

This option has been explored through workshops, consultation and stakeholder engagement. It appears to be a widely held view that it would not be possible to transition immediately to a full market based approach, where every business is able to cover its insolvency obligations through insurance, bonding or other market based schemes. There were concerns raised that there may not be sufficient appetite or capacity in the market to cover all companies or risks. There may also be disproportionate costs or barriers that exist unless the market is given sufficient time to transition and develop.

Overall, there is a common view that it would not be feasible or desirable to move insolvency protection fully into the market in time to implement the PTD2 on 1 Jan 2018.

6.1 The Proposal: Strengthen ATOL to be aligned with PTD2

The proposal keeps the ATOL scheme in operation, with alterations made to reflect the minimum requirements of the PTD2. The ATOL scheme would continue to operate as outlined above, however it would need to be adjusted so that;

- a. Insolvency protection applies to sales by businesses *established* in the UK
- b. The definition of "package" is modified to cover a broader range of booking models
- c. The obligation on businesses to provide information on insolvency protection is expanded
- d. The application of insolvency protection for Business-to-Business sales is removed

- e. A new definition of “Linked Travel Arrangements” (LTAs) is introduced to cover sales of connected holiday elements purchased from separate suppliers. LTAs would receive a different level of insolvency protection.

Maintaining the existing approach is attractive in that it is likely to involve the least disruption to industry, consumers and the regulators in transitioning to the new PTD2. However, even making as few changes as possible will change how the ATOL scheme operates.

The focus of this impact assessment will be on insolvency protection applying to sales by businesses established in the UK (proposal a. above) as opposed to ‘place of sale’. Implementation of this requires primary legislation. The remaining changes will be implemented through secondary regulations via the European Communities Act (1972) and will not be considered in this assessment.

Primary legislation changes:

‘Place of sale’ to ‘Place of establishment’

The application of UK insolvency protection will be changed from the location of the sale of the trip, to sales made by businesses established in the UK. Travellers buying trips from businesses elsewhere in the EU will not be entitled to ATOL protection, but should be offered the insolvency protections as laid out in the Member State within which the business making the sale is established. However this does not preclude businesses established overseas from obtaining ATOLs, provided they meet the requirements. Traders established outside of, and, making sales into the EU will be obliged to comply with the domestic insolvency protection systems of each State in which relevant activities are directed. The primary legislation does not create any enabling powers, so no secondary regulation will be enabled under this primary legislation change.

7 Sectors and groups affected

The main sectors and groups that will be affected are as follows. It is important to recognise that in BEIS’ assessment of the impacts on the non-flight based travel industry there may be effects on other sectors and groups:

Passengers: PTD and PTD2 are aimed at providing enhanced protection for consumers in the event of an insolvency in the sector. Passengers will find the protection they receive, and who provides it, may change under PTD2. They will also be affected through changes in information provision and clarity about the financial protection of packages they buy. ATOL sales as a share of all leisure flights have fallen from over 90% in 1998 to just under 50% in 2009. The absolute number of annual ATOL sales has risen slightly in recent years, perhaps owing to the widening of scope in packages falling under ATOL in the 2012 Regulations. However, the scale of the impact is still considerable; in 2015/16, the CAA protected 25.2 million passengers⁹.

Travel companies/package operators: The biggest effect will fall on the package travel sector, in particular on tour operators, travel agents or other vendors involved in making available travel combinations, either as package or linked travel arrangements. The policies may change the way they sell their products, or where they sell those products from. There are an estimated 4,545 travel agency businesses in the UK (according to the 2016 UK Business Register¹⁰), with an estimated 2,068 businesses currently licensed under the ATOL scheme. Total authorised turnover for current ATOL holders is £21.8bn¹¹. The other businesses may provide non-air based travel or do not sell ATOL licensed goods. Non-air based travel businesses sit outside of the scope of this impact assessment; air-based travel businesses previously outside the scope of ATOL may now fall into scope, and therefore are considered in this impact assessment.

As can be seen from figure 1 below, the scheme is dominated by three large companies who make up nearly 40% of the total licenced passengers falling under ATOL. The ATOL market is heavily skewed to the larger ATOL holders followed by a large tail of small-medium sized businesses operating under ATOL.

⁹ http://publicapps.caa.co.uk/docs/33/ATT_Accounts_2016%20signed.pdf

¹⁰ SIC code 7911. Source:

<https://www.ons.gov.uk/businessindustryandtrade/business/activitysizeandlocation/datasets/ukbusinessactivitysizeandlocation>

¹¹ Figures provided from the CAA November 2016. This is for sales to the public and include packages, Flight-Plus and Flight-Only.

Top ATOL Licence holders	Number of passengers covered (millions)	Proportion of all licensed passengers
3	10.1	39%
10	15.4	59%
20	18.1	70%
30	19.4	75%
Total: 2068	25.9	100%

Figure 1 Breakdown of ATOL holders

CAA: The CAA is the regulator of the ATOL scheme in the UK, thus any changes affecting the ATOL scheme will have an effect on CAA operations. It is responsible for licensing businesses and ongoing monitoring and enforcement. The CAA also administers the Air Travel Trust Fund and manages the refund and repatriation obligation of failed ATOL holders.

Government (Department for Transport): Ultimately, under EU law the Government is responsible for ensuring that the insolvency protection obligations in the PTD are met and are effective.

The CAA manage the ATOL scheme on behalf of the Secretary of State for Transport, and the Fund is integrated within the Department for Transport's accounts. Changes to the structure of the ATOL scheme could have an impact on the viability and sustainability of the fund, which may lead to calls on Government to consider a loan or other intervention, subject to state aid rules. (PTD2 does not require cover to extend to highly remote risks.)

8 Costs and benefits of the Proposal: Do Minimum

Option 2 is the continuation of the ATOL scheme with some adjustments to bring the scheme into compliance with the Package Travel Directive 2015. The primary legislative changes required are those that the obligation for businesses to have an ATOL licence will move from those business who make their sales in the UK, to sales made by businesses established in the UK. The implications of introducing this measure are explored below.

Changing the scope of the ATOL scheme will have both immediate and longer term impacts. In the short term the legislation will result in the ATOL scheme extending to cover passengers booking packages in the EU with a company established in the UK, and ceasing to be responsible for companies based in other Member States selling packages into the UK. It will continue to apply to companies based outside of the EU who are selling into the UK.

8.1 Changing incentives for businesses choosing a Member State for establishment

The new PTD2 aims to promote a level playing field for businesses by harmonising rules and removing obstacles to cross-border trade. If we assume that all Member States transpose the PTD2 at an equivalent level, there should not be much difference in attractiveness to businesses across Europe purely on the basis of insolvency protection. The PTD2 raises the minimum bar for the standard level of insolvency protection offered across Europe. One respondent to our consultation noted there should be little motivation for businesses to go 'regulation shopping' across Member States to take advantage of varying protection schemes.

In the short term it may be difficult for a business to move their place of establishment due to factors such as property rents or IT server locations. In the longer term, however, businesses may make strategic decisions on their place of establishment, which may lead some companies to leave or establish in the UK. These decisions will be based upon a broad range of factors, the consideration of the relative costs and benefits of insolvency schemes across Europe represents just one of these.

Another consultation respondent noted: "It is unlikely to make much sense to consider moving our travel businesses to a location outside the UK There will be a number of factors taken into account in determining whether a future businesses place of establishment, and the cost of compliance with the ATOL Scheme will simply represent one element."

Businesses established in a Member State and operating across Europe will have a number of options available to them in order to comply with the PTD2:

- Establish the business in one EU Member State and sell under that Member States insolvency protection to customers across Europe
- Structure the business such that it can establish in two or more separate Member States, with each distinct entity complying with the corresponding Member State insolvency protection of where it is established, and selling to consumers either solely in that member state, or across Europe, under different insolvency protection schemes
- Establish outside of Europe, and sell into Member States, complying with the insolvency protection of the Member State into which they sell

There could be an increase or decrease in the number of businesses operating under ATOL leading to a rise or fall in the number of passengers paying APC into the ATTF. We cannot know whether companies will decide to establish or leave the UK, so in the short term we assume a net migration of zero. Specifically we assume that a business in the short run will not set up a new place of establishment. We have assumed a net migration of zero due to the uncertainty surrounding future businesses strategic decisions.

Consultation responses from tour operators suggest that British companies are presently unlikely to re-establish their businesses outside the UK. Some of the larger operators have indicated that they will review their position post Brexit and ATOL reforms: ‘the change would certainly encourage a comprehensive consideration of the emerging opportunities.’ However, the majority of operators who responded to our consultation indicated no intentions to re-establish their businesses outside of the UK. This reinforces our net migration of zero assumption used within our central case.

8.2 Overview of Analysis

Given the uncertainty whether companies will decide to establish or leave the UK we have undertaken two scenarios as sensitivity testing. The base case considers the immediate impacts or ‘overnight’ change after implementation. This assumes a net migration of zero; we assume that a business in the short run will not set up a new place of establishment.

The two scenarios as sensitivity tests consider a longer time horizon. It is assumed in this case that some businesses within a year of the policy being implemented may choose to change their primary place of establishment.

The three scenarios consider the alternative business reactions or market responses to the new PTD2:

- Scenario 1: Base case central scenario (Section 8.4)
- Scenario 2: Reduction sensitivity (Section 8.5.1)
- Scenario 3: Expansion sensitivity (Section 8.5.2)

The ATOL reduction and ATOL expansion scenario are considered against the ATOL base case scenario. Our scenarios represent just one view of a future reality based on our implicit assumptions. The exact costs and benefits will depend on how businesses choose to react under the new PTD2. The table below shows the breakdown of different types of businesses and overall impacts and flows that have been considered within the analysis:

Country of establishment	Company sells holidays to	Short term impact	Medium term impact
UK	UK	No change	Businesses may choose to leave or establish in the UK resulting in an expansion or reduction in ATOL. We have considered both an expansion and reduction scenario. The central case is a combined scenario which therefore assumes a net migration of zero.
	EU	EU sales come under ATOL	
	Rest of World	ATOL does not cover sales made in Rest of World	
EU	UK	These companies fall out of ATOL	
	EU	No change, not covered by ATOL	
	Rest of World	No change, not covered by ATOL	
Rest of World	UK	No change, sales covered under ATOL	
	EU	No change, sales covered by Member State scheme	
	Rest of World	No change, sales covered by alternative protection measures	

Figure 2 Impacts and flows

8.3 Key Impacts

The Impact Assessment identifies and monetises the following key impacts on businesses:

- Licensing costs
- Admin cost of applying for licenses
- APC payments to the ATTF
- Familiarisation costs
- Payments from the ATTF to passengers

Impact on businesses

Licence costs

If businesses choose to establish in the UK or outside of Europe and sell in the UK they will be required to comply with the ATOL scheme. This will mean familiarisation costs, the cost of applying for a licence from the CAA, and the APC rate paid on each licensable holiday sold.

The current licence costs are set by the CAA and shown in Figure 3.

Type of licence	Cost of licence	Administrative Cost of Application	Charge per licenced Seat	Cost of licence amendment ¹²
Standard ATOL	£1,890	£618	£0.1185	£123
Small Business ATOL	£1,115	£139	N/A	N/A
ABTA Joint Administration Scheme	£710	£139	£0.1185	N/A
Franchise ATOL	£710	£139	£0.1185	£123
Standard Licence renewal	£1,185	£262	N/A	£123
Accredited Bodies	Dependent on Accredited Body			

Figure 3 Licence costs

¹² Administration cost as outlined in Official Record Series 5 - Scheme of Charges table 1 for amending licences.

In addition to the standard cost of an ATOL licence and administration costs, a business applying for a standard ATOL (over 501 licensed seats) will have to pay a fixed charge per passenger /seat charge of 11.85 pence¹³. A business applying for a Small Business ATOL (less than 500 licensed seats) is exempt from the fixed charge per licensed seat.

Administrative costs

Businesses will also need to cover the administrative cost of applying for a licence which is estimated to be 19.5 hours work for senior corporate managers in the case of a Standard ATOL licence; 4.4 hours in the case of other ATOL licences; and, dependent on the Accredited Body in the final case¹⁴. The administrative cost of applying for each type of licence is shown in Figure 3, and is based on an average wage of £26.30 per hour for Corporate Managers and Directors. The administrative cost of a Standard ATOL licence renewal is estimated to be 8.25 hours at of senior corporate manager time at £26.30 per hour¹⁵.

APC payments to the ATTF

Businesses operating under the ATOL scheme will also incur the cost of paying the ATOL Protection Contributions (APC) at a rate of £2.50 per protected passenger who purchases a holiday. Under this measure there will be no additional licence compliance costs for businesses already established in the UK solely selling into the UK and for business established outside of Europe and selling into the UK. For businesses established in the UK but selling across Europe, the terms of their ATOL licence will require to be amended by the CAA and they will now be required to pay the APC levy for all passengers (as opposed to just UK passengers). For businesses established in Europe and selling into the UK they will no longer be required to part of ATOL and will need to comply with the insolvency regulations in place within the Member State they are established.

Familiarisation cost

Businesses will have to become familiar with the ATOL scheme in order to comply with the proposal. There is guidance available on the CAA website and businesses will likely have to spend time reading this guidance and seek further information where they need clarity. The cost of familiarisation to businesses new to ATOL is estimated at £95 per business. The CAA have estimated this to be on average 3 hours work for senior corporate managers to complete in the case of a Standard ATOL licence¹⁶. All businesses new to ATOL have to complete a short online training course and test before joining the scheme. Following discussions with the CAA, we anticipate that current ATOL holders will also be required to undertake a similar training course once PTD2 and scheme is implemented in 2018.

The broad range of consultation responses confirmed that businesses will have associated implementation and familiarisation costs. The majority of respondents are unable to comment precisely until the proposals are confirmed. The amount is very much dependent on the size and model of each business. Our familiarisation cost assumptions have been based on the limited number of quantified responses that the Department received through consultation.

One of the largest ATOL holder anticipated a familiarisation cost of £250,000-£500,000. We have used the higher end of the range as a conservative estimate and assumed a per passenger familiarisation cost of 9 pence for large multinational firms¹⁷. We apply this to the top 30 largest ATOL holders, which represent 75% of total licensed passengers under ATOL.

A medium sized ATOL holder (75,000 licenced passengers) responded with an anticipated cost of £60,000, giving a per passenger cost of 80 pence. The majority of small to micro businesses were either unable to quantify or outlined minimal costs. To be conservative we have assumed the 80 pence per passenger cost to cover the remaining ATOL holders within the scheme. These businesses are unlikely to exploit the economies of scale that the larger multinationals possess.

UK established Businesses currently making sales under the ATOL scheme within the UK

There are three categories of business to consider in this circumstance; businesses established in the UK and selling solely in the UK; businesses established in the UK and selling across Europe; and businesses

¹³ This refers to the Licence Limit of passengers or seats on the ATOL.

¹⁴ Based on a telephone survey carried out by the CAA in 2016 on the time taken by 24 ATOL holders to apply for their licence.

¹⁵ Based on 2014 ASHE, Pay by SOC 4 digit 2010 code, Table 14.6a. The figure of £26.30 is the gross wage rate, adding in non-wage labour costs gives a figure of £31.70. Non-wage labour costs taken from the Labour Cost Survey 2000.

¹⁶ £26.30 is the gross wage rate, adding in non-wage labour costs £31.70.

¹⁷ Businesses with over 100,000 licenced passengers.

established in the UK and at least one other Member State and selling across Europe. Under PTD2 businesses must sell under the insolvency protection scheme in which they are established.

For businesses established and selling solely in the UK there will be no change in insolvency protection following the change in law. These are likely to be smaller businesses selling specialist or niche holiday packages. For this subsection there will be no change in costs. The amendment could bring huge potential benefits to these businesses as they should find it easier to sell into other Member States (if they wish to expand) without the need to comply with various insolvency protection schemes.

Businesses that are solely established in the UK and selling across Europe already have an ATOL licence (for their UK passengers) but will now have to ensure that all European passengers are also covered under their ATOL licence. These businesses will have to comply with ATOL for all their passengers (and pay the APC). The increase in APC payments will represent a greater cost to the business; this will be partially offset by savings from not having to comply elsewhere in Europe with their equivalent scheme.

Although APC contributions represent a benefit to the ATTF, they are a cost to business and are hence a transfer payment. The net impact is therefore zero. These business will no longer be required to comply with the varying insolvency protection schemes of other Member States in which they operate. Assuming under PTD2 the levels of protection offered and levels of compliance are similar across Member States, businesses should benefit from operating under one coherent system. Businesses will only have to comply with one scheme for all their European sales.

On top of this there should be additional savings from reduced licence fee payments for these businesses operating across Europe. Businesses will no longer have to licence in many different countries. Additionally, there will be administrative savings from no longer having to take the time to fill in licencing forms in different countries.

Businesses that have chosen to structure themselves such that they are established in the UK and one or more other Member States will have the option to comply with the level of insolvency protection offered in each Member State in which they are established or opt to align all the operations with one Member States protection scheme. Businesses operating under such a structure may therefore wish to continue 'business as usual' (Continue operating under different schemes including ATOL), opt to solely operate under the UK insolvency protection (ATOL) or opt to solely operate under the protection of an alternative Member State scheme. These business will only choose to amend their current operations to take advantage of the new PTD2 if it represents a more cost effective solution.

UK Businesses would also have the option of establishing outside of Europe, and selling into the UK. This means the business would have to comply with the individual insolvency protection of the Member States into which they sell. Businesses may opt to change their country of establishment as a result of the new PTD2, though for this to be viable it would need to represent a more cost effective solution in the long term. This has not been considered as viable option for business in the short term. Following consultation and discussion with industry we do not deem it realistic to assume that a businesses will choose to re-establish outside of Europe to be able to operate under the old 'place of sale' measure.

Non UK established Businesses currently making sales under the ATOL scheme

There are two categories of business to consider in this circumstance; businesses currently in ATOL but established in Europe not including the UK; and, businesses currently in ATOL established outside of Europe. Non EU established businesses can be assumed to remain under the ATOL scheme as these businesses will continue to operate under the previous 'Place of sale' rule. However Businesses which are established in the EU will now be able to operate under their Member States chosen scheme. These businesses will no longer have to comply with ATOL.

The impact on the CAA and the ATTF

The CAA will face the cost of issuing new licences to businesses who choose to establish in the UK or now choose to sell into the UK from outside of Europe. They will also have to change the terms of some licences in order that the holder can cover its European sales. Alongside the cost of issuing and amending licences there will be the cost of ongoing monitoring of new ATOL holders. As the CAA charges for ATOL licences on a cost-recovery basis this will be a transfer payment from businesses and the net effect is zero.

The impact on the ATTF is dependent upon the strategic decisions taken by businesses on where to establish. If they move to the UK and decide to operate under the ATOL scheme then the ATTF will grow from increased APC but will need to cover refunds and repatriation for those passengers. If businesses leave the UK then the ATTF will not benefit from those APCs but will also no longer need to cover refunds and repatriations for those passengers.

Whilst the APC contributions represent a benefit to the ATTF they are a cost to business and are hence a transfer payment. The net impact is therefore zero.

The potential for companies to extend the scope of consumers protected under the UK scheme will have important consequences for the potential of the ATTF to meet costs through its insurance layer. The insurance purchased for the ATTF is currently for flight accommodation made available in the UK, and as the scheme is currently done on place of sale this has always been effective coverage. As the scope of passengers covered under the ATOL scheme changes the ATTF trustees may need to change the way they insure the fund, which could change the insurance premium and terms they are offered.

The change in number of businesses covered under ATOL will also affect the number of travel company failures that will be covered by the Air Travel Trust Fund. It was assumed in the 2012 impact assessment on ATOL reforms, that 0.3% of passengers have historically been affected by travel operator failure. The average cost of refund and repatriation between 2009/10 and 2015/16 has now fallen to £255 per passenger¹⁸. Removing packages from the scope of ATOL would represent a benefit to the ATTF in terms of fewer pay-outs. Adding additional packages into the ATOL scheme would represent a cost to the ATTF in terms of greater pay-outs. In recent years the average pay out of the fund has been lower than the annual APC contribution, hence the fund is currently in surplus of £139 million. Operator failures in recent years has been comprised of a number of smaller to medium size ATOL holders. However, the fund should be large enough to ensure there is adequate protection in place for consumers should one of the larger ATOL holders fail.

The impact on passengers

UK consumers will be protected by a variety of insolvency protection offered across Member States depending on where the business they purchased their trip from is established. This protection will be harmonised across Member States in accordance with the PTD2, so that consumers should receive a comparable level of protection regardless of where the company is based. PTD2 also introduces information provisions, which will mean that consumers will be informed about the package, the protection and the liable parties before and after booking their holiday. There may however, still be some familiarisation costs to the consumers who are used to the ATOL scheme but may now be protected by insolvency protection in another state. If consumers purchase a trip from a business established elsewhere in the EU and the company becomes insolvent there may be some costs to the consumer of processing a claim with a non-UK insolvency protector.

8.4 ATOL base case scenario

Firstly, under the base case all current non UK established businesses within ATOL fall out of scope of cover.

For Non UK established Businesses currently making sales under the ATOL scheme there are two categories of business to consider in this circumstance; businesses established in Europe not including the UK; and, businesses established outside of Europe.

Out of the 2068 current ATOL holders there are currently 36 ATOL holders based outside the UK. This can be broken down as follows¹⁹.

Place of Establishment	Number of ATOL Licences	Number of passenger covered
Total	2068	25,909,929
(a) UK	2042	23,949,303
(b) EU (Excluding UK)	21	520,233
(c) Non-EU	15	1,440,393
ATOL total with EU businesses removed	2047	25,389,696

Figure 4 Current ATOL holders

Out of the three groups above, groups (a) UK and (b) Non EU established businesses can be assumed to remain under the ATOL scheme based on the 'place of establishment for EU businesses and 'Place of sale'

¹⁸ DfT analysis. The consultation stage impact assessment estimated the cost of refund and repatriation as £302.

¹⁹ Data extracted on 10/11/16 from CAA current ATOL holder's database.

for Non EU businesses²⁰. Businesses which fall in to group (b) EU established excluding the UK will now be required to operate under their Members States chosen scheme. These businesses will no longer have to comply with ATOL. This assumes that none of these businesses will choose to set up a place of establishment within the UK or opt to remain on the ATOL scheme (providing they meet the requirements outlined both by the PTD2 and the Member State in which they are established). The cost savings to these businesses are considered out of scope for this impact assessment as they are non UK businesses.

This group of businesses currently represents less than 1% of ATOL businesses and only 2% of currently licensed passengers. Assuming that these businesses hold a standard ATOL licence, the impacts are:

- Fewer ATOL licences processed by the CAA each year. A reduction in the processing of 21 ATOL licences. This results in:
 - o Reduced fixed licencing costs to EU businesses of £25,000 per annum²¹, and per seat of licencing costs of £62,000 per annum²². This gives a total annual saving of £87,000. This is out of scope.
 - o This leads to identical cost savings to the CAA of £87,000 per annum - as the CAA operate on a cost recovery pricing scheme this will be equal to the loss in income from no longer collecting the licence costs.
- Reduction in business admin costs associated with completing licencing forms. This results in an annual cost saving of £5,500²³ to EU companies. This is out of scope of this IA.
- Reduction in ATOL Protection Contributions (APC) each year. A reduction in APC on the assumed 468,000 trips²⁴ result in:-
 - o A loss of approximately £1,171,000 per year in income to the ATTF.
 - o A benefit to EU business from APC payments no longer made. This is out of scope.
- Travel company failures no longer covered by the ATTF. Removing 468,000 packages from the scope of ATOL. This results in savings to the ATTF of approximately £358,000 per year in pay-outs²⁵.
- The cost of familiarisation to businesses who remain on ATOL:
 - o A cost of £95 per business²⁶ which is estimated to be £194,465²⁷.
 - o A per passenger cost of 9 pence which has been applied to the top 30 largest ATOL holders total licenced passengers and a per passenger cost of 80 pence which has been applied to the remaining ATOL holders licenced passengers²⁸. This is estimated at £6.5m²⁹

²⁰ This also assumes a net migration of businesses of zero i.e. no businesses will choose to re-establish due to the new regulations or opt to apply for an ATOL.

²¹ Equal to the cost of 21 Standard ATOL licence renewal fees at £1,185. Note this is lower than the application fee (Figure 3).

²² 0.1185 pence paid for each of the 520,000 licenced passengers.

²³ 21 multiplied the business admin costs for renewals (£262 from figure 3).

²⁴ Based on 2016 data it is assumed that 90% of those passengers licenced will result in a purchased passenger trip and APC contribution.

²⁵ The average cost of refund and repatriation between 2009/10 and 2015/16 is £255 per passenger, assumed to affect 0.3% of passengers.

²⁶ Assumed to be 3 hours work (Online training) for senior corporate managers in the case of a Standard ATOL licence, £26.30 is the gross wage rate, adding in non-wage labour costs £31.70. Information provided by the CAA.

²⁷ £95 multiplied by 2047; the number of ATOL holders (minus those who automatically fall out of the scheme under the new PTD2), see section 8.3 on familiarisation costs.

²⁸ This has been based on responses to consultation, see section 8.3 on familiarisation costs within business impacts.

²⁹ 19.383 million passengers multiplied by £0.09 plus 6.006 million passengers multiplied by £0.80. Based on consultation evidence (See section familiarisation cost section).

<u>Costs/Benefits</u>	<u>Impact</u>	<u>Transitional</u>	<u>Annual</u>	<u>Out of scope³⁰</u>
Benefit	Savings to business from licence fee			87,000
Cost	Loss in income to the CAA for ATOL licence fees		87,000	
Benefit	Savings to the CAA from processing ATOL licences		87,000	
Benefit	Admin cost savings to business for licences			5,500
Cost	Reduction in APC receipts to the ATTF		1,171,000	
Benefit	Businesses save from reduction in APC payments			1,171,000
Benefit	Reduction in ATTF pay-outs		358,000	
Cost	Business cost of familiarisation training	6,744,000		
Total Cost³¹		6,744,000	1,257,000	0
Total Benefit³²		0	445,000	1,263,000

Figure 5 Base case scenario impacts

Non monetised impacts

- Savings to CAA monitoring and compliance costs. Since CAA would shift their compliance activities to other businesses, it is unlikely they would reduce monitoring and compliance resources on the basis of this exclusion. Therefore we assume no cost saving arising here.
- UK consumers in theory could be protected by a variety of insolvency protection offered across Member States depending on where the business they purchase their trip from is established. There may be some additional familiarisation costs to the consumers who are used to the ATOL scheme but now falling under an alternative Member States scheme. This will include the reading of online guidance to determine the level of protection offered to consumers in the result of an insolvency. However ATOL protected consumers, would still need to read any information provided when booking and guidance surrounding making a claim. The difference in cost is likely to be small.

It should be noted that the reduction in ATTF pay outs (£358,000) will be transferred to other Member States schemes protection systems which will have to now pay out for these failures. As non UK protection schemes are outside the scope of this impact assessment this has not been considered as a transfer. The savings to Non UK businesses from no longer complying with ATOL are out of scope for this Impact Assessment. These savings will likely be transferred into compliance costs for the new scheme in which these businesses have to operate under. The cost of compliance costs of other Non UK schemes is unknown at this stage.

Secondly, under the base case, a subset of ATOL businesses expand their cover to incorporate their EU sales.

We have assumed for those businesses with multiple places of establishment operating across Europe (i.e. the larger ATOL holders), they choose to remain operating across the different insolvency protection schemes in which they are established, at least in the short run. This supported by evidence sought through consultation responses. We have then assumed a 1% increase in the number of passengers covered by ATOL due to a small sub set (1%) of small to medium sized ATOL holders expanding their ATOL cover to

³⁰ Non UK businesses.

³¹ Totals may not sum due to rounding.

³² Totals may not sum due to rounding.

incorporate sales into Europe. This represents businesses with only one place of establishment (UK) who also sell some holidays into Europe. This assumption has been derived following discussions and agreement with the CAA and DfT based on industry experts and current knowledge of existing ATOL holders.

Industry views have been taken into consideration through consultation events held. Although businesses are yet to have finalised their future decision for operating under the new PTD2, a majority of responses from businesses indicated that businesses are unlikely to change their place of establishment and operations across Europe particularly in the short term. One of the largest ATOL holders indicated; "It is too early in this process to offer definitive views on whether this change would encourage us to establish outside of the UK, or to bring the sales of other source markets into our UK protection structures; however, the change would certainly encourage a comprehensive consideration of the emerging opportunities."

The impacts are:

- No change in the number of ATOL licences processed by the CAA each year. However there is an expansion of passengers covered under current licences. This results in:
 - o 20 business licence amendments to be processed by the CAA which will cost businesses a one off payment of £2,460³³ and per seat of licencing costs to business of £30,000³⁴ per annum.
 - o This leads to identical cost savings to the CAA of £30,000, per annum and a one of saving of £2,460 - as the CAA operate on a cost recovery pricing scheme this will be equal to the loss in income from no longer collecting these licence costs.
- Increase in ATOL Protection Contributions (APC) each year. An increase in APC on the assumed 228,000 trips³⁵ result in:
 - o An increase of approximately £571,000 per year in income to the ATTF.
 - o A cost to UK business from making additional APC payments.
- Additional Travel company failures now covered by the Air Travel Trust Fund. Adding 228,000 packages in scope of ATOL. This results in a cost to the ATTF of approximately £175,000 per year in pay-outs³⁶.

³³ Standard Licence amendment fee is £123.

³⁴ £0.1185 pence paid for each of the licenced passengers (assumed 254,000 passengers).

³⁵ Based on 2016 data it is assumed that 90% of those passengers licenced will result in a purchased passenger trip and APC contribution.

³⁶ The average cost of refund and repatriation between 2009/10 and 2015/16 is £255 per passenger, assumed to affect 0.3% of passengers.

<u>Costs/Benefits</u>	<u>Impact</u>	<u>Transitional</u>	<u>Annual</u>	<u>Out of scope³⁷</u>
Cost	Cost to business from licence amendment and Fixed licenced seat fee	2,460	30,000	
Benefit	Income to the CAA from licence amendment and Fixed licenced seat fee	2,460	30,000	
Cost	Cost to CAA from licence amendment and Fixed licenced seat fee	2,460	30,000	
Benefit	Increase in APC receipts to the ATTF		571,000	
Cost	Cost to business for increase in APC receipts		571,000	
Benefit	Cost savings to business for no longer adhering to other Member States insolvency protection requirements		Not quantified	
Cost	ATTF pay-outs		175,000	
Cost	CAA monitoring costs		Not quantified	
Cost	EU consumer familiarisation cost			Not quantified
Total Cost³⁸		4,920	806,000	0
Total Benefit³⁹		2,460	601,000	0

Figure 6 Base case scenario impacts

Non monetised impacts

- Significant cost savings to UK businesses from reduced contributions to foreign equivalents to the ATTF/ATOL scheme. There will also be reduced costs from foreign licence fees which represents a long run cost saving to UK businesses operating abroad. These businesses will no longer be required to pay for the individual Member States protection requirements that they sell into. These sales will instead be covered by ATOL. These cost savings have not been quantified as they will depend on the business and Member State system in question which are unknown. These cost savings could be assumed to partially or fully offset the additional costs imposed on these businesses from expanding ATOL cover to incorporate their European sales. As these cost savings have not been monetised, our estimate can be viewed as conservative.
- Costs to CAA monitoring and compliance costs. Since the number of businesses under ATOL has remained unchanged and the additional increase in passengers represents just 1%, it is unlikely the CAA would increase monitoring and compliance resources on the basis of this. Therefore we assume no costs arising here.
- EU consumers in theory could be protected by ATOL. There may be some additional familiarisation costs to the consumers who are not used to the ATOL scheme but now falling under its protection. Costs to EU consumers are out of scope.

It should be noted that the increase in ATTF pay outs (£175,000) has been transferred from other Member States schemes protection system which will have previously paid for these failures. As non UK protection schemes are outside the scope of this impact assessment this has been considered a cost and not a transfer.

³⁷ Non UK businesses.

³⁸ Totals may not sum due to rounding.

³⁹ Totals may not sum due to rounding.

8.5 Sensitivity analysis

The sensitivity analysis undertaken gives an indication of the potential impact of businesses opting to change their primary place of establishment. It is assumed that a business will only opt to change their place of establishment if it represents a more commercially viable option. The costs and benefits highlighted below have not been included within our best estimate but are presented as a sensitivity.

Our scenario analysis does not fit the NPV range presentation as outlined in the standard IA summary sheet template. Presenting the highest benefit from one scenario with the lowest cost of another scenario would be misleading as they are two mutually exclusive outcomes. Instead we have presented the sensitivity analysis undertaken below.

8.5.1 ATOL reduction Scenario

Under this case a subset of businesses currently established in the UK choose to re-locate abroad, so the number of businesses and passengers covered by ATOL falls. This is in addition to the base case scenario presented above.

This could be as a result of a business operating across Europe choosing to operate under an alternative Member States protection scheme in which they are already established or a result of a UK established business choosing to re-establish themselves elsewhere in Europe to operate under a different Member State's scheme.

We have assumed a 4% reduction in the number of businesses operating under ATOL and a 4% reduction in the number of licenced passengers covered by the scheme. This assumption been based on a recent (May 2016) CAA survey of ATOL holders and DfT Monte Carlo analysis. The CAA survey was used to determine how the PTD2 might affect businesses once transposed into UK law (post 1 January 2018). Of those who responded 4% of businesses said they would choose to relocate their business to Europe once the PTD2 becomes law. This reinforces our view that businesses are unlikely to relocate operations based solely on insolvency protection regulations. It should be noted that there were 190 respondents out of a total cohort of 2,249. The response rate represents 8.4% of those surveyed and so we exercise caution about using it as a representative sample.

On top of the 4% reduction we have assumed an additional 4 million licensed passengers fall out of ATOL under this scenario. This is based on the premise that one or more of the larger⁴⁰ ATOL holders choose to change their primary place of establishment from the UK to an alternative Member State. These sales will now be covered under this Member States protection scheme as opposed to ATOL. This assumption has been derived following discussions with the CAA and DfT analysis of current ATOL holders and evidence sought through consultation.

The impacts are:

- Fewer ATOL licences processed by the CAA each year. A reduction in the processing of 83 ATOL licences⁴¹. This results in:
 - o Reduced fixed licensing costs to EU businesses of £98,000 per annum⁴², and per seat of licensing costs of £594,000⁴³ per annum. This gives a total annual saving of £693,000⁴⁴.
 - o This leads to identical cost savings to the CAA of £693,000 per annum - as the CAA operate on a cost recovery pricing scheme this will be equal to the loss in income from no longer collecting the licence costs.
- Reduction in business admin costs associated with completing licencing forms. This results in an annual cost saving of £22,000⁴⁵ to EU companies. This is out of scope of this Impact Assessment

⁴⁰ By larger ATOL holders we are referring to the top ten biggest ATOL holders in terms of licenced passengers

⁴¹ The number 83 is calculated as 4% of all ATOL businesses plus one additional business with 4 million licensed passengers.

⁴² Equal to the cost of 83 Standard ATOL licence renewal fees at £1,185. Note this is lower than the application fee (See Figure 3).

⁴³ 0.1185 pence paid for each of the assumed 5 million licenced passengers.

⁴⁴ Figures may not sum due to rounding.

⁴⁵ 83 multiplied the business admin costs for renewals (£262) (See Figure 3).

- Reduction in ATOL Protection Contributions (APC) each year. A reduction in APC on the assumed 4.5 million trips⁴⁶ result in:-
 - o A loss of approximately £11.285 million per year in income to the ATTF.
 - o A benefit to EU business from APC payments no longer made. This is out of scope.
- Travel company failures no longer covered by the Air Travel Trust Fund. Removing 4.5 million packages from the scope of ATOL. This results in savings to the ATTF of approximately £3.45 million per year in pay-outs⁴⁷.
- Removal of ATOL familiarisation costs for these businesses that have been included in the base case
 - o £95 per business giving a total of £7,885⁴⁸.
 - o A per passenger cost of 9 pence which has been applied to the large multinational (4 million passengers) and a per passenger cost of 80 pence which has been applied to the remaining licenced passengers who will now have left the scheme and will not incur ATOL familiarisation costs⁴⁹. This is estimated at £1,172,470⁵⁰.

It should be noted that the reduction in ATTF pay outs (£3.45 million) will be transferred to other Member States schemes protection systems which will have to now pay out for these failures. As non UK protection schemes are outside the scope of this impact assessment this has not been considered as a transfer. Cost savings to these businesses have also been considered out of scope as they have left the UK and opted to establish overseas.

⁴⁶ Based on 2016 data it is assumed that 90% of those passengers licenced will result in a purchased passenger trip and APC contribution.

⁴⁷ The average cost of refund and repatriation between 2009/10 and 2015/16 is £255 per passenger, assumed to affect 0.3% of passengers.

⁴⁸ 3 hours of senior corporate manager time at £26.30 per hour (based on 2014 ASHE, Pay by SOC 4 digit 2010 code, Table 14.6a) and uplifted to include non-wage costs to £31.70. £95 multiplied the number of ATOL holders leaving (83)

⁴⁹ This has been based on responses to consultation, see section on familiarisation costs within business impacts.

⁵⁰ 4 million passengers multiplied by £0.09 plus 1.016 million passengers multiplied by £0.80, see section on familiarisation costs.

<u>Costs/Benefits</u>	<u>Impact</u>	<u>Transitional</u>	<u>Annual</u>	<u>Out of scope⁵¹</u>
Benefit	Savings to business from ATOL licences			693,000
Cost	Loss in income to the CAA for ATOL licences		693,000	
Benefit	Savings to the CAA from processing ATOL licences		693,000	
Benefit	Admin cost savings to businesses for licences			22,000
Cost	Reduction in APC receipts to the ATTF		11,285,000	
Benefit	Businesses save from reduction in APC payments			11,285,000
Cost	Cost to business for new Member States insolvency protection requirements			Not quantified
Benefit	Reduction in ATTF pay-outs		3,453,000	
Benefit	Removal of ATOL familiarisation costs	1,180,000		
Benefit	Cost savings to CAA from monitoring		Not quantified	
Cost	UK consumer familiarisation cost		Not quantified	
Total Cost⁵²		0	11,978,000	0
Total Benefit⁵³		1,180,000	4,146,000	12,000,000

Figure 7 Reduction scenario impacts

Non monetised impacts

- The cost savings to businesses from no longer complying with ATOL will likely be transferred into compliance costs for the new scheme in which these businesses choose to operate under. The cost of compliance costs of other Non UK schemes is unknown at this stage but it is assumed a business would only change their place of establishment if it represented a more commercially viable option. Costs to non UK businesses are out of scope.
- Savings to CAA monitoring and compliance costs. Since CAA would shift their compliance activities to other businesses, it is unlikely they would reduce monitoring and compliance resources on the basis of this exclusion. Therefore we assume no cost saving arising here.
- UK consumers in theory could be protected by a variety of insolvency protection offered across Member States depending on where the business they purchase their trip from is established. There may be some additional familiarisation costs to the consumers who are used to the ATOL scheme but now falling under an alternative Member State's scheme. This will likely include the reading of online guidance to determine the level of protection offered to consumers in the result of an insolvency. However ATOL protected consumers, would still need to read any information provided when booking and guidance surrounding making a claim. The difference in cost is likely to be small.

⁵¹ Non UK businesses.

⁵² Totals may not sum due to rounding.

⁵³ Totals may not sum due to rounding.

Expansion scenario

Under this case, additional businesses choose to establish in the UK, the number of businesses and passengers covered by ATOL increases. This is in addition to the base case scenario presented previously.

This is a result of businesses currently established outside the UK choosing to re-locate and establish themselves in the UK, these businesses will now fall under ATOL, ATOL will now cover these businesses sales.

The Expansion Scenario assumes a 4% increase in the number of businesses operating under ATOL and a 4% increase in the number of passengers covered. This is the reversal of the ATOL reduction scenario as outline above.

In addition, we have assumed an additional 4 million licensed passengers come under ATOL. This is based on the premise that one large business in the industry (not currently operating under ATOL) chooses to change their primary place of establishment to the UK. All their EU and UK sales will now be covered under ATOL's protection scheme. This assumption has been derived following discussions with the CAA and DfT analysis of current ATOL holders and evidence sought through consultation.

The impacts are:

- More ATOL licences processed by the CAA each year. An increase in the processing of 83 ATOL licences. This results in:
 - o Increased fixed licencing costs to newly established UK businesses of £98,000 per annum⁵⁴, and per seat of licencing costs of £594,000⁵⁵ per annum. This gives a total annual cost of £693,000⁵⁶. This based on the cost of renewals. The cost in year one of a new licence will be £157,000⁵⁷ plus the per seat licence cost⁵⁸.
 - o This leads to identical income to the CAA of £693,000 per annum - as the CAA operate on a cost recovery pricing scheme this will be equal to the cost from collecting the licences. The income in year one of a new licences will be £157,000 plus the per seat licence cost (as above).
- Increase in business admin costs associated with completing licencing forms. This results in an annual cost of £22,000⁵⁹ to newly UK established companies. This is based on the cost of admin licence renewals. The cost in year one will therefore be £51,000⁶⁰.
- Increase in ATOL Protection Contributions (APC) each year. An increase in APC on the assumed 4.5 million trips⁶² results in:
 - o An increase of approximately £11.285 million per year in income to the ATTF.
 - o A cost to newly established UK business from APC payments.
- Additional travel company failures now covered by the Air Travel Trust Fund. Adding in 4.5 million packages in scope of ATOL. This results in a cost to the ATTF of approximately £3.45 million per year in pay-outs⁶³.
- The cost of familiarisation to businesses new to ATOL:
 - o Cost of £95 per business giving a one off cost of £7,885⁶⁴.

⁵⁴ Equal to the cost of 83 Standard ATOL licence renewal fees at £1,185. Note this is lower than the application fee (See Figure 3).

⁵⁵ 0.1185 pence paid for each of the assumed 5 million licenced passengers

⁵⁶ Figures may not sum due to rounding

⁵⁷ Equal to the cost of 83 Standard ATOL licence fees at £1,890 (See Figure 3).

⁵⁸ Not shown in the summary table.

⁵⁹ 83 multiplied by the business admin costs for renewals (£262) and new licence in year 1 (£618) (See Figure 3)

⁶⁰ 83 multiplied by the business admin costs for a new licence in year 1 (£618) (See Figure 3)

⁶¹ Not included in summary table.

⁶² Based on 2016 data it is assumed that 90% of those passengers licenced will result in a purchased passenger trip and APC contribution.

⁶³ The average cost of refund and repatriation between 2009/10 and 2015/16 is £255 per passenger, assumed to affect 0.3% of passengers.

⁶⁴ 3 hours of senior corporate manager time at £26.30 per hour (based on 2014 ASHE, Pay by SOC 4 digit 2010 code, Table 14.6a) and uplifted to include non-wage costs to £31.70. £95 multiplied the number of new ATOL holders (83)

- A per passenger cost of 9 pence which has been applied to the large multinational (4 million passengers) and a per passenger cost of 80 pence which has been applied to the remaining licenced passengers entering ATOL⁶⁵. This is estimated at £1,172,470⁶⁶.

<u>Costs/Benefits</u>	<u>Impact</u>	<u>Transitional</u>	<u>Annual</u>	<u>Out of scope</u> ⁶⁷
Cost	Cost to business from ATOL licences		693,000	
Benefit	Increase in income to the CAA for ATOL licences		693,000	
Cost	Cost to the CAA from processing ATOL licences		693,000	
Cost	Admin cost to businesses for licences		22,000	
Benefit	Increase in APC receipts to the ATTF		11,285,000	
Cost	Business cost from increase in APC payments		11,285,000	
Benefit	Cost savings to business for no longer adhering to other Member States insolvency protection requirements		Not quantified	
Cost	Increase in ATTF pay-outs		3,453,000	
Cost	Cost of familiarisation, businesses new to ATOL	1,180,000		
Cost	Cost to CAA for monitoring		Not quantified	
Cost	EU consumer familiarisation cost			Not quantified
Total Cost ⁶⁸		1,180,000	16,145,000	0
Total Benefit ⁶⁹		0	11,977,755	0

Figure 8 Expansion scenario impacts

Non monetised impacts

- The cost to businesses from complying with ATOL will have been transferred from compliance costs of the previous Member State scheme in which these businesses have opted to move from. The cost of compliance costs for Non UK schemes is unknown at this stage but it is assumed a business would only change their place of establishment if it represented a more commercially viable option. As it has not been possible to monetise these savings our estimate can be viewed as conservative.
- Costs to CAA monitoring and compliance costs. Since the number of businesses under ATOL and passengers covered has increased it may be necessary for the CAA to increase their monitoring and compliance resources on the basis of this. The additional 5 million passengers assumed represents 2% of current licenced passengers so the additional monitoring resource cost should be low.

⁶⁵ This has been based on responses to consultation, see section on familiarisation costs within business impacts.

⁶⁶ 4 million passengers multiplied by £0.09 plus 1.016 million passengers multiplied by £0.80, see section on familiarisation costs

⁶⁷ Non UK businesses.

⁶⁸ Totals may not sum due to rounding.

⁶⁹ Totals may not sum due to rounding.

- EU consumers in theory could be protected by ATOL. There may be some additional familiarisation costs to the consumers who are not used to the ATOL scheme but now falling under its protection. Costs to EU consumers are out of scope.

It should be noted that the increase in ATTF pay outs (£11.3 million) will have been transferred from other Member States' protection systems which will no longer have to pay out for these failures. As non UK protection schemes are outside the scope of this impact assessment this has not been considered as a transfer.

9 Summary & monetised impacts of preferred option

The preferred option is Option 2, which details the changes needed in primary legislation to strengthen the ATOL scheme. This option will help to protect consumers in the travel industry whilst bringing the ATOL scheme into compliance with EU law. This impact assessment has considered the primary legislation change needed to implement the PTD2, which is to extend insolvency protection so that it applies to all businesses established in the UK as opposed to being based on 'place of sale'.

Central Case

Costs	Transitional	Annual	Out of Scope ⁷⁰
TOTAL	6,749,109	2,063,307	
Benefits	Transitional	Annual	Out of Scope
TOTAL	2,460	1,046,068	1,262,559
Total NPV	-15.51 Million		

Figure 9 Summary of monetised impact – central case

Overall, the policy shows a negative NPV of -£15.1 million. It is worth noting there are two additional factors that are worth consideration. Firstly, HM Treasury guidance indicates that the scope of regulatory impact assessments should extend only to UK consumers and UK businesses. As some non-UK businesses would benefit from the scheme but cannot be included in the final NPV, this is one potential source. It is worth noting that if impacts to non-UK businesses were included, the annual benefits would be £2.3m per year, which exceeds the annual cost estimate of £2.0m per year.

Second, lower cross border barriers will then mean huge potential benefits or cost savings to businesses who sell into other Member States without the need to comply with various insolvency protection schemes. Businesses operating across Member States will no longer be required to comply with the varying insolvency protection schemes and can operate under one coherent system. Businesses will now only have to comply with one set of rules and regulations outlined by the Member State in which they are established. This means these businesses will now only incur one fixed licensing cost fee which will be spread over a larger number of sales. This generates a benefit to business that has not been quantified in this IA.

There may be some additional familiarisation costs to the consumers who are not used to the chosen Member State insolvency protection scheme and for Business to familiarise themselves with the new PTD2 and guidance compliance.

⁷⁰ Non UK businesses are out of scope for this impact assessment (This include previously UK established businesses who have opted to leave the UK and move their place of establishment overseas)

Due to the uncertainty surrounding how businesses will choose to behave under the new PTD2 and ATOL scheme we have presented our central base scenario as our best estimate. This assumes a net migration of zero. The results of the base case scenario are summarised below:

Sensitivities

The expansion and reduction scenarios have been presented as additional sensitivities. They give an indication of the scale of the potential impact depending on the decisions made by firms under the new PTD2. The ATOL expansion and reduction scenario consider a longer time horizon and cover the second order effects. It is assumed in these cases that some businesses within a year of the policy being implemented may choose to change their primary place of establishment. A summary of the two scenarios is presented below:

ATOL reduction scenario (Base case + reduction)

<u>Costs</u>	<u>Transitional</u>	<u>Annual</u>	<u>Out of Scope⁷¹</u>
	6,749,109	14,041,081	0
<u>Benefits</u>	<u>Transitional</u>	<u>Annual</u>	<u>Out of Scope</u>
	1,182,815	5,192,002	13,262,080
Total NPV	-81.74 Million		

ATOL expansion scenario (Base case + expansion)

<u>Costs</u>	<u>Transitional</u>	<u>Annual</u>	<u>Out of Scope⁷²</u>
	7,929,464	18,208,762	0
<u>Benefits</u>	<u>Transitional</u>	<u>Annual</u>	<u>Out of Scope</u>
	2460	13,023,843	1,262,559
Total NPV	-52.65 Million		

10 Risks/Uncertainties

There is a risk that businesses 'play the system' in order to either come under or avoid the ATOL protection scheme. We do not know the potential scale of this movement nor exactly how businesses will choose to operate under the new system. On top of our base case scenario we have undertaken two additional scenario's as sensitivity tests; an ATOL expansion scenario and an ATOL reduction scenario. The assumptions used in these scenarios are judgment based, using evidence from the survey results, feedback from consultation and our current understanding of the industry. These assumptions have been used to give an indication of the potential scale of the impact. These scenarios represent different views of a future reality based on our implicit assumptions. Either an expansion or a reduction in ATOL is entirely plausible, for our central case we have assumed a net migration of zero. However the actual costs and benefits will depend entirely on how businesses choose to operate under the new PTD2 and ATOL scheme.

⁷¹ Non UK businesses are out of scope for this impact assessment (This include previously UK established businesses who have opted to leave the UK and move their place of establishment overseas).

⁷² Non UK businesses are out of scope for this impact assessment (This include previously UK established businesses who have opted to leave the UK and move their place of establishment overseas).

11 Proportionality of Analysis

We have sought evidence through consultation with industry, a recent survey of current ATOL holders and discussions with industry experts and the CAA. Given that the majority of impacts are transfer payments between business and the CAA and the overall impact on business and the ATTF will depend entirely on the behaviour of firms after the PTD2 and aligned ATOL scheme has been implemented. The scope of analysis and scenario tests undertaken have been considered proportionate. The purpose of using a scenario based analysis has been to give an indication of the overall scale of the potential impact pending on the decisions made by firms under the new PTD2. We have presented a central case best estimate based on a net migration of zero in the short run. Alongside this we have presented our sensitivity analysis which considers the change in businesses opting to change their primary place of establishment in the long run.

12 One-in-Three-Out and the Business Impact Target (BIT)

The proposals outlined above are a direct transposition of an EU directive into UK law with no gold plating. Under the Better Regulation Framework Manual paragraph 1.9.9, European Directives that are transposed without any gold-plating are exempt from the One-In, Three-Out framework⁷³. For the same reason the proposals are also a Non-Qualifying-Regulatory-Provision (EU) and therefore the EANDCB will not score against the BIT. The estimate for the EANDCB is £1.2m.

13 Supplementary tests (including Small and Micro Business Assessment)

13.1 Small and Micro Business Assessment (SaMBA)

There will be an impact on small and micro businesses. The package travel industry is heavily skewed with three large companies having considerable market power, with a group of 20-30 medium-large companies followed by a large 'tail' of small and micro businesses.

Small and micro businesses make up a large proportion of the total number of businesses operating under ATOL (see Figure 1). These businesses will primarily be UK established selling into the UK only. Therefore the change from 'place of sale' to place of establishment measure has little or no impact on the current cost of operations of these businesses. These businesses will now face lower barriers to trade if they wish to expand into EU markets, businesses will no longer have to comply with the EU Member State schemes in which they wish to operate in.

The Better Regulation Framework Manual sets out a range of mitigation actions that Departments can take to reduce the impact of Government policy on small and micro business. This is because impacts of government policy on small business tend to be disproportionate and prevents entrepreneurship in setting up and running companies.

In this context, the ATOL policy goes some way to mitigating impacts on small business. On this basis we do not believe there is a case for partial or full exemption. The list below of mitigating actions explains what has been done to assist small business.

Full, partial or temporary exemption: The transposition of EU law as a maximum harmonisation provision prevents small business exemptions, even on partial or temporary basis.

Extended transition period: The transposition of PTD2 requires that there is a six month period from enactment to implementation. There is no provision in the PTD2 to extend this period for small businesses.

Varying requirements by type and/or size of business: Small businesses are able to take advantage of two (less burdensome) approaches to achieve compliance with the PTD2: these are through small business ATOLs; and using Accredited Bodies.

Specific information campaigns or user guides, training and dedicated support for smaller businesses: The CAA, Accredited Bodies and other trade bodies (such as ABTA) would be able to assist small businesses in compliance with the proposal.

Direct financial aid for smaller business: Reimbursement or financial support for compliance would likely cause a breach of EU rules on state aid, so this is not available.

⁷³ <https://www.gov.uk/government/publications/better-regulation-framework-manual>

Opt-in and voluntary solutions: There is no scope for small businesses to comply with PTD2 on an opt-in or voluntary basis.

13.2 Family Test

Whilst this policy does not explicitly or implicitly target families we have considered how it may inadvertently impact on family relationships. We do not anticipate that there will be a differential impact on families as the policy will apply equally to all UK citizens.

Equalities Assessment

We do not anticipate that this policy will lead to negative or adverse impacts on equality. This is because the scope of the policy will apply equally to all UK citizens regardless of their race, gender, age, disability, pregnancy and maternity status, gender reassignment, religion or belief, sex and sexual orientation.

14 Post Implementation Review

The Department will review the impact of any changes that are implemented shortly after they have taken effect to gain further insights regarding the impacts of these changes. The Package Travel Directive itself must be reviewed by the European Commission and a report produced for the European Parliament by 1 January 2021.

Post Implementation Review (PIR) Plan

1. **Review status:** Please classify with an 'x' and provide any explanations below.

<input type="checkbox"/>	Sunset clause	<input checked="" type="checkbox"/>	Other review clause	<input type="checkbox"/>	Political commitment	<input type="checkbox"/>	Other reason	<input type="checkbox"/>	No plan to review
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In line with Better Regulation Framework guidance, this legislation will require a review clause, as it regulates business, requires collective agreement, and is implemented through primary legislation. A sunset clause is not required as it is not being implemented through secondary legislation.

2. **Expected review date** (month and year, xx/xx):

0	1	/	2	3
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Rationale for PIR approach:

Describe the rationale for the evidence that will be sought and the level of resources that will be used to collect it.

Will the level of evidence and resourcing be low, medium or high?

The post-implementation review will follow a medium-evidence and resourcing approach. This is proportionate given the changes that are expected and given the uncertainty surrounding our estimates (we cannot accurately predict how business will choose to operate under the new PTD2 and ATOL scheme, the success of the scheme will therefore need to be reviewed at a later date to determine the long term future of ATOL).

What forms of monitoring data will be collected?

The review will use existing monitoring data covering;

- ATOL licence applications and licences issued by the CAA
- ATOL holder data on number of businesses and total licenced passengers
- ATTF financial annual reporting

The available monitoring data will be compared with data from a baseline period before the changes were implemented (where available).

A consultation with industry will also likely take place to discuss the long term future of the scheme.

What evaluation approaches will be used? (e.g. impact, process, economic)

The post-implementation review will use a light touch process evaluation and a medium level of impact evaluation. The process evaluation will draw upon stakeholder feedback while the impact evaluation will involve comparing available monitoring data to pre-implementation values (where available).

How will stakeholder views be collected? (e.g. feedback mechanisms, consultations, research)

Existing engagement channels will be the main route for obtaining views from key stakeholders along with consultation and CAA run surveys to ATOL holders. Official correspondence on the subject will also be monitored.