



## THE ASSOCIATION OF INDEPENDENT TOUR OPERATORS' CONTRIBUTION TO THE AIRLINE INSOLVENCY REVIEW

**AITO ([www.aito.com](http://www.aito.com)) is an association of 120 specialist tour operators. The association was formed in 1976 and is currently governed by a 14-person board of directors known as the AITO Council. Members are considered amongst the best specialist holiday companies in the UK. Collapses of AITO tour operators have been extremely few and far between (circa five in total) over AITO's 40-year history. AITO monitors its members' financial health carefully.**

Together, AITO members employ more than 3,100 people, carry approximately 600,000 passengers per annum and have a combined turnover of over £1 billion. AITO employs six members of staff.

Uniquely amongst travel industry associations, AITO members are required to act as **principals**, taking full responsibility for the actions of their suppliers as required by the Package Travel Regulations, and to provide financial security for licensable, non-licensable **and** accommodation-only turnover (the latter is over and above current legal requirements in the UK – AITO aims to be the best in terms of consumer care). Currently 68 members are also members of the travel industry's overarching association, ABTA.

This submission has been approved by the AITO Board on behalf of its members and has been sent out to the membership for comment.

AITO also has an affiliated membership of 59 independent travel agents (AITO Specialist Travel Agents), with 90 branches; these travel agencies work closely with AITO specialists and sell AITO tour operators' holidays (amongst those of other suppliers). Agents are not bound by the same requirements as AITO members, but they are all members of ABTA or another trade association. *NB This response is written on behalf of AITO tour operators, and does not take into account the views of AITO Specialist Travel Agents.*

Members' views are garnered via Council contacts (each AITO member has a specific Council member with whom they liaise and via whom their views are shared with Council at its bi-monthly meetings) and via discussion in regular general meetings of members, where topics of interest are raised, briefed and discussed at length. Members are also invited to bi-annual meetings with the Civil Aviation Authority (CAA), where views on current legislation and trading are discussed.

AITO is also represented on the CAA's advisory body - ATIPAC.

## Some Background

This is not first time that the association has been involved in lobbying to improve consumer financial protection in order to cover both (a) airline and (b) tour operator licensable turnover (ATOL).

It is very difficult to resist the temptation to say “we told you so” when dealing with Government over this issue. We attach four documents dating from 2005, 13 years ago, which demonstrate our efforts to persuade Government to take some action over airline insolvency in order to protect the consumer. Of course, it has taken the collapse of Monarch and the £60m or so of public money spent on Monarch repatriations, which will never be recovered, to persuade the Government, very belatedly, to take action. The term ‘shutting the stable door after the horse has bolted’ comes to mind.

Attached are copies of the four documents referred to above:

- a draft letter which was sent by our members to their Members of Parliament
- a letter from AITO to Lord Triesman, Parliamentary Under-Secretary of State for the Foreign and Commonwealth Office
- a letter from AITO addressed to Karen Buck, MP, the then Parliamentary Under-Secretary of State for Aviation
- and the Early Day Motion No.137 put forward by Mrs Louise Ellman, MP.

We lost the vote in the House of Lords by I believe three votes in respect of sending the proposed amendment (see below) back to the House of Commons.

***"Clause 9, Page 11, line 46, at end insert -***

***71C Scope of those required to contribute to the Air Travel Trust***

***1. The Secretary of State may by regulations make provision for and in connection with defining the scope of those air carriers and tour operators required to make contributions to the Air Travel Trust not limited to appliers for licences by virtue of section 71 above. Furthermore those regulations may vary the terms of the Air Travel Trust so as to include protection for payments made by all air travellers, not merely those travelling with holders of Air Travel Organisers' Licences."***

It seems the reason why this eminently sensible amendment was not adopted was that both British Airways and easyJet claimed that the levying of £1 per outbound passenger would facilitate some financially weak airlines to compete with them. The two airlines argued that such a levy would mean there would be no financial risk to members of the public booking with less financially secure airlines, in the knowledge that, should these airlines fail, the customers' money would not be at risk and their repatriation, if abroad at the time of failure, would be guaranteed.

**We would like to state again that the creation of a giga-fund by a levy on all UK outbound passengers in order to cover both tour operators and airlines is the only feasible way of tackling the problem of airline insolvency.**

In 2005, the CAA saw no problem with the proposed scheme, although at a later date it was stated that foreign airlines could not be asked to contribute. AITO always saw this as a convenient cover-up for the BA/easyJet position, which was the real reason why the amendment was deemed unacceptable.

## **The Simplest Solutions are the Best**

The Air Travel Trust Fund currently stands at around £150M, even after having covered the ATOL requirements of the Monarch collapse to the tune of some £60M.

The “Transport Statistics Great Britain” report published by The Department for Transport stated there were 251 million terminal passengers in and out of the UK in 2015. We can therefore assume that one-way outbound flights in 2017 probably reached in excess of 150 million in number. We assume that foreign airlines are also included in the figures. **For this initial exercise, all that is required is an approximate figure.**

According to the CAA, 26.2M passengers annually are covered by the ATOL system, giving an earning potential of approximately £65.5M per annum at £2.50 per head.

If airlines were asked to pay £1 per outbound passenger, this would create an annual payment of £150 million into a fund which we assume would include those operators flying passengers under the ATOL scheme. If the ATOL system also charged £1 to all ATOL holders (in addition to the £1 paid by airlines) so that, for the ATOL segment of the market, the actual combined charge would be £2 per outbound seat, we would arrive at a possible income of £150M plus £52.4M giving a yearly input into such a giga-fund of £202.4M.

Within one year there would be £202.4M, plus the existing £150M, giving available funds in case of a collapse of an airline or ATOL licensed tour operator of £352M. This would grow by a minimum of say £150M per year. Initially, as currently for the Air Travel Trust Fund, insurance and bank guarantees could also be put in place. After several years, the fund would become so enormous that the use of such bank and insurance guarantees would probably be unnecessary. The contributions could then be reduced.

The decision however, would have to be as to whether, in the event of a collapse monies paid in advance would be refunded or whether the fund would just pay for repatriation. In dealing with the collapse of a large airline, only repatriation could be covered otherwise the fund would have to run to billions of pounds unless Government is prepared to allow the credit card system to shoulder refund requirements seeing that most airline tickets are purchased by credit card.

## **How Would the System Work?**

The CAA has proved, following the Monarch collapse, that if necessary a virtual airline can be created to repatriate 100,000 stranded passengers overseas with virtually no delay to their original return flight arrangements.

A smaller collapse could be dealt with more simply by using existing capacity at overseas airports and, if necessary, supplementing this existing capacity by adding extra flights. This was the method used to handle the XL collapse in 2008.

A larger collapse of, say, an airline the size of British Airways, easyJet, Ryanair or Norwegian, would again require a blend of existing capacity and additional chartered flights. The larger the airline, the more difficult repatriation would become but, after the first two days, as was proved by the Monarch exercise, a routine sets in and the repatriation exercise operates smoothly.

The ATOL system would remain and the CAA would administer this as it does currently. The CAA also monitors airlines, so would be very much aware of any airline in danger of failure, as they were with Monarch. However, refunds for money paid to a failed airline for future trips would probably not be refunded in the same way that

money is refunded by the CAA in the case of failed tour operators. Much would depend on what volume of forward bookings were paid for by credit card. However, the credit card sector would balk at having to refund advance monies to customers following a large airline collapse, although they have had to do so for Monarch. One should also take into account the fact that credit card companies may raise charges to the whole industry if they were completely exposed to refunding money on advance payments to clients of a failed airline.

What would actually have been created via this suggested method is an ATOL system covering both tour operators and airlines, backed by an enormous fund.

## Conclusions

We have discounted any insurance schemes from providing cover. Insurers would find it difficult to make a risk assessment and, if clauses in insurance policies were breached, they might well refuse cover in the event of a collapse. Anyway, insurers would still rely heavily on the CAA for the repatriation and possibly also the refund exercise. Insurers may well also require collateral in order to provide cover which would tie up valuable working capital, especially significant for the larger players.

We have also discounted any self-help arrangements between airlines because these have never worked in the past, no matter what airlines or IATA claim. Airline computer systems just cannot adapt to an event such as the collapse of another airline - and passengers are simply confused. It is far simpler to allow passengers to board free of charge and for the CAA to pay the contributing airlines an agreed rate for the repatriation leg. IATA would not be able to arrange refunds for monies paid to airlines in advance.

Yes, there would doubtless be some double payments and there would also be arguments about double bonding when payments were made by credit card, but this situation exists currently and, if all participants were asked to pay £1, then all would be trading in the same arena. There would be no complaints that some had paid while others had not done so. A level playing field would have been created and confusion dissipated for trade and consumer alike.

Airlines like BA would argue that they would lose competitive advantage, **but mutuality has always existed within the ATOL system and it should also exist within an airline system** or a combined tour operator/airline system. It can also be argued that, when a big player fails, the damage to any scheme far outweighs the contribution that the failed company has been making.

No organisation can claim that its existence is 100% guaranteed. It is time that airlines such as BA and easyJet accepted that such a consumer protection scheme is the only way that client protection can be achieved without resorting to the public purse. The added security provided by such a system will, we believe, generate confidence in the airline sector and will thus benefit all airlines as well as the consumer.

Finally, what this system does is to guarantee consumer repatriation and possibly (to be decided) a refund from either the fund or credit card companies for future bookings if appropriate, no matter how the consumer has booked. It is simple to understand, both for the client and the industry, and offers excellent value all round.

The industry cannot afford further complications or squirming on the part of the airlines. This is a simple, straightforward scheme and the wherewithal to operate it and monitor it is already in place, courtesy of the CAA.

**We urge the Government to act speedily and cleanly to enact this suggestion in time for summer 2019. It is perfectly feasible to do so, would demonstrate clearly that the Government takes consumer protection seriously, and would benefit the consumer and the industry alike as it is simple, transparent and based on currently existing structures.**

2nd May 2018

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AITO ([www.aito.com](http://www.aito.com))