Loganair
Scotland's Airline

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Mr Peter Bucks
Chair – Airline Insolvency Review
Department for Transport
Great Minster House
76 Marsham Street
London SW1P 4DR

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By e-mail to airlineinsolvency@dft.gsi.gov.uk

Dear Mr Bucks,

Loganair submission to the Airline Insolvency Review

Pursuant to the call for evidence issued in the April 2018 Airline Insolvency Review document, I am writing on behalf of Loganair to provide our views on the options set out in the document. In addition, we would welcome the opportunity to participate in person in a DFT evidence session to further amplify our submission and to answer any questions that you may have of us.

Background

Loganair is the only airline headquartered in Scotland. Formed in 1962 and continuously trading ever since, we operate a fleet of 30 regional aircraft ranging from 8 to 50 passenger seats on a network of 53 routes, predominantly within Scotland but also extending to Norwich, the Channel Islands, Ireland and Bergen in Norway. In 2017, we carried 750,000 passengers of whom 98% travelled on domestic UK flights.

The vast majority of services are operated at our own commercial risk without direct subsidy; only 9% of our customers travelled on subsidised routes that were operated under PSO arrangements. Despite this, the services that Loganair operates throughout Scotland are widely considered to be lifeline routes essential to the fabric of the Highlands and Islands. A typical Loganair roundtrip flight will carry customers travelling for business, leisure, healthcare, training courses, sporting and cultural events and to take onward connecting flights; in the cargo hold alongside customers' checked bags, you'd also find any combination of daily newspapers, Royal Mail, pharmaceutical supplies, blood samples for medical tests, water samples for health testing, fresh flowers for island weddings and funerals and more besides.

Customer sales

Approximately 66% of Loganair's sales are made directly to the travelling public via our website at www.loganair.co.uk. A further 22% of sales are made through travel agents and remitted through the IATA Bank Settlement Plan [BSP] (the largest component of which is the NHS patient travel arrangement administered through a TMC); around 6% is sold through other airlines under interline agreements and the remainder through our in-house Customer Contact Centre and our group bookings department.

We launched sales in our own right in March 2017 ahead of exiting a nine-year franchise agreement with Flybe on 31 August 2017 and so have recently had to set up payment card processing agreements (with Worldpay) and enter BSP schemes in the UK, Ireland, Norway and Denmark in our own right. Flybe had previously handled all of this for Loganair's scheduled services and remitted all monies collected to Loganair, less its franchise fee.

A "one-size fits all" approach to airline insolvency does not work

The origin of the review is in the October 2017 demise of Monarch Airlines, which was an airline focusing predominantly on international flights carrying leisure customers. A logical solution to protect customers of that airline cannot be unilaterally applied to other airlines with radically different route networks and customer profiles.

Specifically, we are strongly opposed to any form of industry-wide levy on air tickets to fund repatriation. In Loganair's case, there are several reasons why we believe that this is inappropriate and unnecessary:

- Our customers already pay one of the highest fixed Government levies in the world on their air tickets – Air Passenger Duty. There is no equivalent levy on rail, road or ferry passengers. If the Government is minded to set funds aside for future repatriations, this should be set against the £3.2bn income it derives from APD and not form a further burden on air passengers who already are subject to unduly high levels of taxation.

- A high proportion (around 25%) of our customers are travelling on tickets funded by the Scottish Government, through NHS patient travel and council and public-sector related business. A levy would increase the Government's own travel costs yet could still impact on demand in the wider travel market, particularly where we compete (on an unsubsidised basis) with heavily subsidised ferry and rail operators.

- A further proportion of customers are travelling on business and in the event of needing to arrange alternative travel following an airline failure, the costs of this are likely to fall to their employer rather than being borne by the individual consumer. This highlights the different mix of customers from airlines such as Monarch to those like Loganair.

- For domestic travel, there are alternatives to air journeys in the form of bus, rail and/or ferry travel – and these are subsidised by £1.2bn per year by the Scottish Government. If a repatriation requirement arose on domestic air services, the Scottish Government is likely to simply mandate its contracted rail, bus and ferry service providers to carry customers free of charge – an effective repatriation scheme. There is no need to replicate this structure and add unnecessary cost for customers or airlines.

Consumer protection via Credit Card

Approximately 50% of our customers pay by credit card. Under the EU Payment Service Directive II rules, we are no longer able to surcharge customers for using credit cards as a form of payment, and Loganair (and other airlines) now have to absorb the increased cost of the card processing. Adding an insolvency levy to this would be "double bonding" given the protections provided for such customers under the Consumer Credit Act 1974.

The question of "double bonding" between the credit card protection and any future insolvency levy (or indeed ATOL APCs at present) is, in our view, a key one to be addressed for the industry as a whole. It makes no sense for airlines and their customers to pay twice for the same thing, yet at the same time, we recognise that customers paying with debit cards are less likely to have the same protection. This anomaly is, we would suggest, a key question that the review should seek to address. Subject to sight of any proposals, we are likely to support a move to end the current disparity between credit and debit card payment protection.

Scheduled Airline Failure Insurance

We do not support the use of external SAFI on a mandated basis. Our position is that only the Civil Aviation Authority is able to assess the financial fitness of airlines using information provided on a statutory basis by the airlines that it licenses for that express purpose. There are examples from across both the airline and retail industries where withdrawal of credit insurance by an independent insurer who is not party to that company's trading results can either precipitate, accelerate or contribute towards the collapse of the company. A move to mandate SAFI would *de facto* be a statement by the DFT and Government that it has no confidence in the CAA to fulfil its obligations under EU 1008/2008.

Trading in administration

We would support changes to legislation and CAA policy which would make it easier for airlines to continue to operate for a defined period of time whilst in administration. This is widely seen in other countries – notably in the USA with Chapter 11 Bankruptcy Protection – and the weight of experience there suggests that there is no safety-based or operational impediment to an airline's ability to do so. A regional carrier, PenAir, which fulfils a similar role in Alaska to that Loganair fulfils in Scotland, is indeed trading in Chapter 11 protection now.

Fundamentally, we agree that using the failing operator's own aircraft and crews to conduct a Government-funded repatriation of the nature of that seen following the demise of Monarch Airlines will be the least cost solution which also causes the least disruption to consumers. It would also continue to provide paid employment for the employees concerned for a short additional period, reducing Government liabilities for unemployment benefits and protective notice awards by the Insolvency Service, and providing the employee with scope to find and transition into a job with a new employer. It may also provide greater opportunity for an airline to be acquired as a going, operational concern before liquidation becomes the only option.

Our view is that this would require a change to the Civil Aviation Act 1982 such that the power to detain aircraft for non-payment of charges could only be effected where the operator is not covered by a recognised form of insolvency protection. The application of this in the UK is within the UK Government's gift to determine; it is clearly a wider issue beyond the scope of our evidence submission (and indeed knowledge!) as to how this could be achieved overseas.

Airline rescue schemes

Loganair operates a rescue fare programme for customers when other airlines cancel flights or ferry crossings are cancelled due to bad weather, enabling a customer holding a travel confirmation with another provider to secure a seat on the day of travel on a Loganair flight at £60 one-way to protect their travel plans.

We also operate a programme where we offer an option to customers to change their bookings free of charge to travel earlier or later if bad weather is forecast which may disrupt flights. Given that we were aware of a number of customers who had made "DIY" connections between Loganair and Monarch Airlines flights at Manchester last October, we extended this same capability to undertake a free flight change for Monarch customers who also had [separate] Loganair reservations. It was released via social media and was warmly received by the few who took up the offer.

We believe that the impact on the consumer of airlines voluntarily making schemes such as these more widely available in the case of other airline insolvencies – with adequate controls to prevent abuse in place, such as requesting the travel confirmation with the competing provider – can only be beneficial. It generates positive publicity and customer affinity for the airline offering that assistance, and given the low frequency with which such circumstances arise, it is not detrimental to long-term earnings.

I hope that our submission may have provided useful information to the Review, and would reiterate again that we see an industry-wide levy to cover airline insolvency as being a one-size-fits-all approach which is not relevant to our business yet would impose undue and unnecessary cost on our customers and our business. I would also repeat that we would welcome the opportunity to participate in an evidence session if practicable.

Yours sincerely,

Jonathan Hinkles
Managing Director

c.c. Montserrat Barriga, Director General, European Regions Airline Association