

## **TUI response to the Airline Insolvency Review: A Call for Evidence**

**May 2018**

### **1.0. Introduction**

- 1.1. TUI is the UK's largest tour operator, serving more than six million customers every year. TUI Airways is TUI UK & Ireland's airline, operating to more than 70 destinations in 30 countries from 22 regional airports.
- 1.2. The aim of TUI Airways is to be the world's best holiday airline, designed with the needs of the holidaymaker at the heart of what we do. That is why we are continually committing to investing in new state-of-the-art aircraft and the overall customer experience. TUI Airways operates a fleet of 63 aircraft ranging from Boeing 737-8 aircraft to 787-8 aircraft, with a significant fleet investment programme being rolled out over the coming years. This includes taking delivery of the next generation 737 Max aircraft.
- 1.3. We also understand the importance of a balanced degree of financial protection in the travel sector in order to support continued consumer confidence and to provide an adequate response in the event of an airline failure as we have witnessed in recent years with the demise of carriers such as Monarch and Air Berlin.
- 1.4. Therefore, we welcome the efforts being made by the UK Government to look at the ways in which the consumer can best be protected, even in what may be an unlikely scenario where an airline is to become insolvent.
- 1.5. We note at this initial stage given the curtailed timeframe to provide this initial feedback, our comments have been restricted to the assessment of the principles which have been set out in the consultation document.
- 1.6. As we have already previously indicated, we would welcome the opportunity to engage further in the on-going consultation process on this issue over the coming months.

## 2.0. Airline Insolvency Review Terms of Reference and Principles

- 2.1. We have welcomed the decision that has been taken by the Government to adopt an independent chair for this review process, and as we have already indicated would welcome engagement with both the chair and the professional advisors appointed going forwards.
- 2.2. It is clear that when reviewing this topic there are two clear themes;
  - i. How best to provide arrangements for an insolvent airline to curtail its operations in such a fashion that passengers already at their destinations can be repatriated accordingly; and
  - ii. How passengers who have purchased a holiday can ensure that they are financially protected when an airline does become insolvent.
- 2.3. While we are not able to elaborate further on the detail of the appropriate mechanism to answer either of these questions at this stage, we do indeed agree that this is the appropriate focus for this review which will require a detailed evaluation process.
- 2.4. It is important to note that insolvencies such as that of Monarch, Air Berlin and XL Airways (UK) while are significant incidents are indeed rare, and are not common occurrences in either the UK or across European markets. We would, therefore, hope that any measures adopted are proportionate and targeted to the overall risk being set out, particularly to avoid any unnecessary burdensome red-tape which could ultimately run counter to the risk it is trying to mitigate.
- 2.5. We welcome the review will be conducted in an open and transparent manner and in particular support the principle around *minimisation of market distortions*. A review and any adoption of any such regulatory policy should ensure that there is not an adverse impact on what is a highly competitive sector. It is important that any outcome from this process takes into consideration impacts on both UK registered *and* International operating carriers, given UK nationals could be present on either. Therefore, we are of the view the review should take into consideration all carriers operating out of UK and not the domicile of the carrier, in order to ensure a level playing field.
- 2.6. It is also important to note during this process that any solution should also not discriminate against the size of the operator and would prefer to see solutions that would apply to operators of all sizes in a consistent manner and fair manner. This could indeed involve the Civil Aviation Authority (CAA) taking greater financial oversight and interventional processes in an airline that may indeed be in *considerable* difficulty. Such an intervention would indeed require

further consultation to determine how indeed this could effectively occur.

### **3.0. The challenge of responding to an airline insolvency**

- 3.1. At this stage of the review process, we welcome that all options are still available to be analysed and for consideration going forward.
- 3.2. It is clear that there would be merit in adapting UK insolvency law to allow for greater flexibility when an airline enters the insolvency process. Repatriation in an organised manner for an airline that does become insolvent is one of the key considerations in our view for this process. Allowing such an airline to 'wind down' in an orderly fashion over a considered period of time, would prevent the need to implement considerable and challenging repatriation efforts as seen with Monarch and the Civil Aviation Authority more recently at a significant cost to the taxpayer. However, any such 'wind down' arrangement will need to be underwritten with sufficient capital to ensure continued operational costs are able to be met, and we would be open to further engagement on this specific issue.
- 3.3. Additionally, earlier intervention by the regulator when it clear that a carrier will indeed become insolvent could also mitigate some of the adverse impacts in this process and limit financial exposure, however, further considerations here on how exactly this intervention will take place and on what terms will need to be considered further also. It is noted that changes could be made to the access to data and airline systems to run operations effectively which will need to be evaluated in detail.
- 3.4. Further consideration is required for the cancellation of forward bookings particularly in reference to the refund process. While we note the various options which have been presented in this document including a reference to the insurance market, credit card protection, rescue fares and increasing passenger awareness of the options available to them so that they are able to take an informed decision from the outset, this is an area in our view that requires further deliberation and financial examination.
- 3.5. What we are clear on is that there is no single solution to this issue and that careful consideration of risk, burden and circumstance will all need to be balanced throughout this process.

#### 4.0. Close

4.1. We look forward to an on-going dialogue with the Government on this matter, and participation in the consultation process. We do hope that these comments aid initial thinking, and would be happy to elaborate further where necessary.

4.2. For further information please do contact [REDACTED]  
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[REDACTED]