

Date 11th May 2018

A response to the Airline Insolvency Review – ‘A call for evidence’ paper of April 2018

Dear Review Team,

As someone intimately involved with and impacted by the demise of Monarch Airlines Limited in October last year and as a passionate supporter of British commercial aviation, I offer the following thoughts and comments to some of the points raised in your paper.

I was the Director of Fleet and External Affairs at Monarch Airlines. I had been in post for over 7 years at the point the airline went into administration and the administrator KMPG subsequently kept me on to assist in the detail of winding down the airline. My prime responsibility at Monarch was the contractual management of the company's aircraft fleet. I resigned from the airline board in June 2015 as a result of the company reorganisation which followed the sale of the business in the previous October but elected to stay with the company and continue the project of rationalisation and modernisation of the company's fleet. In addition to varied roles in other parts of the industry before joining Monarch, I had worked at the airline for a total of 28 years, holding various operational and commercial posts during my employment and consider myself well versed in these aspects of civil aviation and a wide general knowledge of the industry. I sat as Monarch's senior representative on the Executive Committee at Airlines UK (AUK) and on the Aeropolitical Council at IACA in Brussels.

As a side note, it was my intention to put myself forward as available to support your work streams, I believe Jane Middleton, the Chair of AUK had suggested to you that I would be a suitable candidate. Unfortunately, until recently other activities deflected my focus on the review and I missed your end of April deadline. I am however currently available should you wish to progress the suggestion further.

Turning to the review itself.

My response uses the paragraph references of the 'call for evidence' document, linking a number of relevant ones to a comment in order to avoid dilution of the point under scrutiny by continued or partial repetition where the comment crosses a number of 'paragraph boundaries'.

As a starting point though, in addition to the opening remarks in the Foreword, crediting aviation with social achievements in the 20th century I believe it is reasonable to go further to suggest that the ability for large numbers of a country's populace to move easily between nations has to a large degree taken away the mystique and 'fear' of foreign lands, helping achieve to a greater extent than ever before, the political stability and cohesion across the world but particularly in Europe which began in the latter decades of the 20th century. Even in today's electronically connected world, aviation is crucial to the continued wider wellbeing of modern society and to achieve this, it is necessary to have an efficient, competitive and sustainable aviation industry.

Para	Comment
1.2	I agree that these principles should be used as a benchmark to test any proffered solutions against. Of particular relevance are ‘the beneficiary pays..’ and ‘minimisation of market disruption’ elements in relation to avoiding disadvantaging UK registered airlines.
2.2 / 2.3 / 2.5 / 3.12	<p>The point in relation to the lowering of fares making air transport more easily available to a wider populace is valid and is one of the benefits that has resulted from the intense degree of competition in the industry. However as to the point of wider choice, whilst this has been true over the last 20 to 30 years, it seems that there is an increasing risk of a dominance in a market by any one player which is not necessarily good for the consumer in the long run.</p> <p>Overcapacity has been evident in the European market for some years now and it has been ever more common for operators to offer fares into the market that are significantly below the route’s direct operating costs. This ultimately is a game that only the very well funded, generally large airlines can sustain and must to some degree at least be a tool by which they can weaken and ultimately destroy competition. It thus becomes a consideration in whether and to what extent an overly aggressive market is a link to insolvency and as a result whether the CAA should have the ability to consider and control minimum pricing.</p>
2.7 (‘boxed’ article on Recent airline insolvencies) / 2.8 / 3.2 / 3.4 / 3.12 / 3.19 / 3.23	<p>In relation to Monarch’s insolvency and the cost to the UK taxpayer, the political considerations surrounding the repatriation of non ATOL covered Monarch passengers (who were the significant majority) is outside the scope of these comments. However, with the decision being taken to do so, the resulting cost of ‘approximately £60m’ (i.e. circa £600 per person) for a two week operation is excessive by the standards of an airline of this size and network. My view is that it could have been achieved at a lower cost to the tax payer. In addition, and as is mentioned elsewhere in the paper, the fact of there being sufficient capacity available when required was something of a lucky break and could not always be expected to be the case. It would have been more cost effective and in all likelihood, more operationally cohesive, easily managed and less stressful for the passengers affected if Monarch had been permitted to continue operations to achieve this task whilst in administration.</p> <p>Whilst there would undoubtedly be issues to be overcome in details such as the retention of the necessary numbers of suitably qualified staff, from conversations I have subsequently had with a number of Monarch’s aircraft lessors it is highly likely that it would have been possible to have achieved the vital step of retaining the aircraft for a period sufficient to allow the required repatriation. This would have required a financial guarantee from the government to cover any additional operational cost liabilities to provide comfort to lessors that there was no risk of participating aircraft being impounded by creditors but to have done so would I believe, have resulted in a lower cost to the tax payer than that ultimately paid. A high level contact at one of the major aircraft lessors has offered his time for more detailed discussions with the insolvency review panel on this matter should they desire. Please contact me for further information if it is deemed desirable to follow this offer up.</p>

In providing a guarantee it is likely government would want the comfort of knowing they were not taking on the risk of any significant prior debt. Obtaining this comfort may require ongoing, closer scrutiny of an airlines economic position by the CAA with regard to available cash vs operational cost liabilities. This is not likely to be welcomed by the airline community but may perhaps be preferable to an alternative of a spread in the coverage by or increase of costs from an ATOL type scheme.

3.4 A point worthy of consideration here is the manner in which the regulator apparently feels forced to react when faced with the increasing possibility of having to suspend or revoke an operator's licence in a pending insolvency situation. In particular, during the discussion on licence renewal in the autumn of 2015, the CAA elected to secure and pre-position aircraft capacity to cover a possible repatriation of Monarch passengers. The knowledge of the CAA's actions very quickly became known to the industry as a whole. The resulting anxiety this created for business partners and staff took up significant amounts of airline management time that could perhaps have been better spent on other issues. More worryingly, although in this instance it did not thankfully manifest itself to the ultimate degree, was the real risk that the travelling public would respond adversely to the news and cease to book with the carrier. Had that happened, it would have turned the possibility of failure into a certainty as a result of revenue inflows ceasing.

3.5 / 3.9 As one step toward a solution I would prefer to see a greater awareness on the part of passengers as to what they are or more correctly, what they are not purchasing. I believe the inclusive tour operators make it plain their clients are protected by the ATOL scheme. Conversely it is not currently a requirement that those booking outside of the ATOL scheme are made aware they are not covered by it. I suspect there is currently a general level of confusion, nonchalance or ignorance during the booking process for the majority of passengers. It would seem reasonable that people are made well aware of the implications of their limited rights and of not being protected by the ATOL scheme in the event of airline failure prior to committing to a booking.

3.9 If it is ultimately deemed right that a more comprehensive ATOL style scheme is required due to the degree of disruption and emotional stress an airline failure causes to the travelling public, efforts should be made to avoid any additional financial or administrative burden on the airlines themselves. Air Passenger Duty (APD) and European Regulation 261/2004 (where compensation is frequently disproportionate to the fare paid) are already burdens on the industry in excess it seems, of requirements on other transport sectors. Moreover, unlike other transport sectors the industry pays for all of its infrastructure asking nothing of the public purse save support for a very small number of routes that are recognised as lifelines to remote communities which cannot be otherwise commercially justified. I have some sympathy with the IATA view of an opposition to a general fund contributed to by all airlines for these reasons.

Should an extension of the existing ATOL scheme or similar be seen as the solution, to avoid it being yet another cost burden imposed on the industry, consideration should be given to hypothecation of at least a part of the APD to address this.

I wish you success with this challenging task. It is important for the sake of the health of an industry that is a credit to the nation and for the passengers who rightly put faith in the airlines to transport them safely and without cause for concern.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'M J Smith', with a long horizontal flourish extending to the right.

Mr M J Smith