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Norwegian's response to the Call for Evidence: Airline Insolvency Review
May 2018

Introduction

Norwegian Air Shuttle is the sixth largest low-cost airline in the world, carrying over 33 million passengers each year to 150 destinations on over 500 routes. Norwegian Air UK is a subsidiary of Norwegian, fully licensed and subject to the regulatory oversight of the UK Civil Aviation Authority.

In the UK, Norwegian carries some 6 million passengers per annum from London Gatwick, Edinburgh, Manchester and Belfast Airports to 50 destinations worldwide, including points in Europe, the US, Singapore and Argentina.

In 2014, Norwegian introduced the UK's first low-cost, long-haul flights to the US and has now become Gatwick's third largest airline, with more than 1,000 UK-based pilots and cabin crew.

With a large number of aircraft on order, Norwegian is heavily invested in the UK aviation market and plans to launch new routes and add more frequencies on existing routes in the years to come.
Norwegian is thus a significant stakeholder in UK aviation and we thank you for giving us the opportunity to submit our views to this initial Call Evidence on the subject of Airline Insolvency.

Overall comment

While the CAA has an important role to play in ensuring consumers are adequately protected, it is important this be proportionate to the risk and the availability of affordable alternatives. There are a number of mitigating factors, outlined below, which could significantly minimise consumers' exposure, in the unlikely event another airline becomes insolvent.

In order to avoid putting unnecessary financial burden on airlines and in turn, consumers, it is important to put this issue into context. It is a fact, acknowledged by the European Commission when it considered the case for a mandatory levy that airline insolvency remains extremely rare. Figures show that only 0.07% of flight-only passengers are likely to be affected by airline insolvency until 2020. Of these, according to a study conducted for the Commission by Steer Davies Gleave, only 12% are likely to be away from home at the time of a collapse. It therefore behoves the CAA to strike a balance between mitigating the potential risk to the 0.0084% of air passengers travelling from and to the UK each year, and the burden on the 99.16% of passengers, who are exposed to no such risk.

We do not subscribe to the view in the Call for Evidence document that the risk of airline bankruptcy is growing. Since the deregulation of air transport in the 1990s, airlines have had to re-think their overall strategy and become as efficient as possible in order to offer consumers a better value proposition than the competition. This has necessitated reform of business models to more accurately respond to customer demand. While, in a free market there will always be winners and losers, European airlines have weathered such competitive pressure since deregulation. Weaker carriers have already exited the market or merged with larger carriers, which consolidation has resulted in strengthened larger carriers.

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Risks of a levy

As evidenced by the Steer Davies Gleave study for the Commission on the very same subject, the proportion of European air passengers, at risk of being stranded abroad due to airline bankruptcy, is only 0.0084%. It cannot be right to impose a mandatory levy on the rest of the 99.16% passengers who will never incur this remote risk. A levy would thus be highly disproportionate to the risk involved yet is likely to distort competition between UK airlines and their counterparts from other parts of the world, as well as with other competing modes of transport. Most importantly, a mandatory levy would take away the decision from the consumer, as to whether he/she values protection to the extent that he/she is willing to pay for such protection.

There are other reasons why the ATOL scheme, which currently protects consumers purchasing an inclusive package, should not be extended to flight-only sales. There is an enormous difference in financial exposure between a consumer paying thousands of pounds for flights, accommodation, transport/car hire for, say, a two-week holiday in Barbados, compared to a flight-only passenger paying tens of pounds only for a flight to Barcelona. In the unlikely event these passengers find themselves away from home at the time of collapse of an airline, the consequential loss to the first customer is considerably greater than that at stake for the latter, who would typically have a range of alternative means to mitigate any financial loss and readily secure an alternative flight home.

An extension of the ATOL scheme to flight-only sales would be discriminatory, disproportionate and tantamount to an imposed levy, unwanted by the consumer.

Mitigating factors

1. **Travel insurance policy**

As argued above, consumers should be empowered to themselves make a choice as to whether they feel there is value in protecting themselves against this unlikely event. This could be done by taking out optional travel insurance, most policies now including 'Scheduled Airline Failure Insurance' (SAFI).

Many airlines already offer insurance products to customers on an optional basis. However, some years ago, some airlines had to change their offer from an 'opt-out' basis to 'opt-in', due to EU law stipulations. The rationale given by the EU institutions at the time was that consumers should be free to pro-actively decide whether the risk merited insurance at their cost. Sales of travel insurance understandably dropped, following this regulatory intervention. It cannot be right for the kneejerk response to be to now impose an indirect levy on the passenger, denying him/her any choice whatever in the decision.

We acknowledge that communication to air passengers on what these insurance options would and would not cover and the potential downside if such cover is not taken up, could be improved.

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2. **Payment by Debit and Credit cards**

Increasingly air passengers use debit and credit cards as form of payment. This affords card holders financial protection, in the unlikely event the airline goes into bankruptcy. The proportion of passengers paying by card has significantly increased, as the penetration of internet sales has increased, further spurred by legislation to cap charges, levied by airlines for use of such payment modes. A high and growing proportion of air passengers is therefore automatically protected against financial loss at no extra cost to themselves, by using a debit/credit card as mode of payment.

We see merit in better communicating this advantage to potential customers, so that they are fully aware of their rights.

3. **Rescue fares**

Rescue fares, in our view, remain the optimal way for the industry to self-regulate against such minimal risk. Airlines have long voluntarily offered rescue fares to affected passengers, often for a nominal fare and for a reasonable number of weeks after the collapse of their airline. European airlines across all business models accept to offer such fares not only to assist affected customers of a collapsed airline but motivated by enlightened self-interest. A customer of an airline, whose airline has collapsed, is a potential new customer of the rescuing airline and the most effective way to recruit him is to assist him at time of need.

It is true that there is a need for the availability of rescue fares to be communicated to affected passengers, who find themselves away from home and this is sometimes difficult for the rescuing airline since it does not have contact details of such customers. The spread of rescue fares, since first introduced by low-fares airlines and now offered also by IATA airlines, makes it possible for the CAA and FCO consular offices in the destinations concerned, working together, to point customers in the direction of airlines serving the point at which they find themselves. Involvement of official channels, which are often the first point of contact for affected customers, to create greater awareness, would be a very constructive and cost-effective way to resolve the plight of those customers, who have not already found this solution for themselves, in response to rescuing carriers' announcements on their websites.

To address the concerns highlighted in the Call for Evidence document, information on such fares could be improved and the CAA has a role to play here to communicate these with stranded passengers who often use the CAA as their first point of contact in such situations. Working closely with the CAA is crucial in this area since the rescuing airline will not have access to the failed airline's customer contact details.

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Basket of measures and Better information campaign

In conclusion, we believe there to be already available a basket of measures, as highlighted earlier, which offer a good degree of protection against the minimal risk of financial loss for flight-only consumers. In addition, in the demonstrably unlikely event they find themselves away from home at the time of failure of their airline, the CAA, working together with the FCO, could ensure much greater awareness of the availability of rescue fares by other airlines, to enable them to get home.

For the airlines' part, we need to do more to ensure a fuller understanding by flight-only passengers in the booking process of the position regarding insurance against the risk of financial collapse of the airline, that they are not covered by ATOL and of the availability of insurance to cover this risk. In the event customers do not avail of the option to take out such insurance, the CAA would have no obligation to arrange their repatriation. The suggested cooperation between CAA and FCO consular offices to ensure awareness of airline rescue fares, would then provide alternative ways home, at no cost to the public purse.

Industry and Regulators working more closely together – particularly in the area of communications to affected customers - would provide an appropriate, proportionate and cost-effective solution in the case of flight-only customers, which would greatly reduce the scale and cost to the CAA of mass repatriation exercises, such as the recent Monarch case. It also represents a more equitable approach to the issue, avoiding the cross-subsidisation inherent in the inclusion of flight-only in ATOL or the imposition on customers, with no choice in the matter, of an unjustified across the board financial levy.

We thank you for the opportunity to participate in this exercise and stand at your disposal for any clarification or additional information you may require.

For more information, please contact:

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