



Airline Insolvency Review – A Call for Evidence

Initial Response from International Airlines Group

May 2018

INTRODUCTION

1. International Airlines Group (IAG) welcomes the government's call for evidence in its review of airline insolvency.
2. IAG is the parent company of Aer Lingus, Iberia, LEVEL, Vueling and British Airways which is the UK's largest international airline. IAG is one of the world's largest airline groups with 546 aircraft flying to 279 destinations. It is the third largest group in Europe and the sixth largest in the world, based on revenue. In 2017 British Airways carried 45.2 million passengers of IAG's total 105 million. IAG's corporate head office is in London and the group employs over 43,000 people in the UK.
3. Given the short timescales of this first consultation stage and the complexity of the issues and challenges the Review covers, this document provides a general response to the call for evidence. We look forward to engaging in the next phases of consultation that the Review sets out.

SUMMARY

4. We recognise that steps can be taken to improve the overall process and management of airline insolvency, however IAG is firmly opposed to any measure that adds further cost and complexity for airlines or their passengers. It is critical that the competitiveness of the UK airline industry is at the forefront of any recommended action. Proposed measures must avoid inadvertently distorting the market for airlines operating in the UK.
5. The call for evidence has already acknowledged, at this early stage, that there is an inherent issue with the guarantee of capacity in the event of an airline collapsing, demonstrating that funds do not necessarily equate to seats home for stranded passengers. We recommend that the Review extensively explores measures which look to utilise existing assets/capacity of the insolvent airline to repatriate passengers back to the UK.
6. In order to facilitate this, we believe that significant opportunity lies in expanding the role that the CAA, as an existing regulatory body, plays in the airline insolvency process. Effective oversight of the financial stability of airlines should ensure that there is an opportunity to mitigate a large degree of the negative impact that passengers and the government are exposed to when an airline enters insolvency. IAG notes that financial oversight of airlines is already a key responsibility of the CAA.
7. We acknowledge that insolvency is a complex issue with the risk depending greatly on the individual circumstances of different airlines, as such the Review should recognise that a one size fits all approach, where financially robust airlines (and their

customers) end up subsidising weak and poorly-managed airlines, will not be acceptable.

POLICY CONTEXT

8. We understand that the government is conducting this review because it believes that the competitive nature of the airline industry puts the viability of some airlines at risk and that, should an airline fail, the costs of repatriating passengers or allowing them to complete their journey must not in future fall on the taxpayer, as it did in the case of Monarch's failure in 2017.
9. We note that this implies that the government has taken a policy decision (one that is not outlined in any ministerial announcement or formal document nor backed by legislation) that in the event of any failure of a UK airline (or even potentially a non-UK airline operating to the UK) all passengers should be able to complete their journey.
10. We question whether an entirely new regulatory system or extra charges levied on the privately funded and privately operated airline sector is an appropriate or proportionate response.
11. In conducting this review, the government should first recognise such incidents are extremely rare. Besides Monarch, only one reasonably significant airline in the UK has failed (Excel Airways) and that was ten years ago. European Commission and IATA figures show that between 2011 and 2020 only 0.07% of flight-only (as opposed to package travel) passengers would be affected by air carrier insolvency, and that of those affected, just 12% (or 0.0084% of the total number) would be stranded abroad and need repatriation.¹
12. It is important to note that, whilst the consequences of an airline collapsing can have a significant impact, it should be recognised within the call for evidence that the outcome of insolvency can vary substantially, and a one size fits all approach may not be suitable.
13. We do not underestimate the degree of inconvenience or distress experienced by passengers whose airline fails but, given this level of risk, it is vital that the Review recognises that any scheme to support repatriation should be proportionate and any model should reward good corporate stewardship, taking into account that some airlines are at greater risk of insolvency than others.

PRINCIPLES OF THE REVIEW

14. The Review sets out four principles by which its work will be guided which we summarise as follows:
 - i. The beneficiary should pay for protection; taxpayer's exposure should be minimised or removed
 - ii. Constraints on the competitiveness and size of the UK aviation market should be minimised and UK registered airlines should not be put at a competitive disadvantage compared with their international competitors
 - iii. Risk should be allocated efficiently; risk for passengers should be allocated to those best placed to manage and control them
 - iv. Simplicity for passengers; passengers should understand the protection available and be able to identify which risks are covered and to what level. Passengers should

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013DC0129&from=EN>

be compensated in a timely and efficient manner: being brought home and compensated quickly

15. IAG broadly supports these overall principles but has concerns about the details of their application.
16. We look forward to more detail being provided by the Review team during the second phase consultations, but we note that the inherent complexity of this whole issue may also be made more so by the principles adopted. This is because it is possible that the principles may conflict with another. For example, the objective of ensuring UK registered airlines should not be put at a competitive disadvantage versus international competitors may be at odds with the principal outlined that the beneficiary pays for protection, depending on the proposed solution. Similarly, given that the costs of leasing aircraft to repatriate passengers of a failed airline could be relatively high, the risks may need to be allocated elsewhere than the beneficiary, so there may be tension between the first and third principles.

Beneficiary Pays

17. In general, we support the principle that the beneficiary should pay for the benefits of any scheme the government decides to impose. The Review should consider carefully that any blanket levy or other compulsory payment scheme would mean that a far wider population would be paying than the ultimate beneficiary.

Competitive UK Sector

18. IAG strongly supports the principle that UK registered airlines should not be put at a competitive disadvantage versus their international competitors. The Review needs to ensure that this principle is at the forefront of any recommendations.
19. It is particularly important to consider the UK's competitiveness due to the nature of the aviation market, where the link between an airline's main flows of business and where it is regulated are not necessarily the same, as acknowledged in the document (with the example of Ryanair). Aviation is a global business, with many choices available to passengers travelling within Europe on competing airlines and over competing airlines and hubs for inter-continental connections.
20. In this context it is concerning that the document also includes the statement that: "constraints on the competitiveness and size of the UK aviation market should be minimised". Minimisation suggests that the Review anticipates that there could potentially be a certain degree of market distortion, even if small. IAG believes it is imperative that there is no market distortion caused by changes to the regulatory landscape. By "constraints on competitiveness" the Review really means, extra regulatory and cost burdens on UK airlines.
21. We are concerned that any of the options that place additional burdens on the UK industry, in particular a levy, would lead to a negative outcome for UK competitiveness. The UK airline industry is an international success and disproportionate government action should not hinder its progress.
22. It is important that the Review is careful when assessing and comparing the protection afforded to consumers in other industries (such as the financial sector) and linking these back to the airline industry. We do not believe that there is adequate equivalence in the product purchased in these scenarios. For example, there is a fundamental difference between booking a holiday and protecting your life savings, with the longevity and consequences of one failing being much more severe when compared with the other.

23. The UK's exit from the European Union places ever more importance on the need to remain competitive and the Review should examine the impact that any changes to the current system would have on the market very carefully.

OPTIONS

24. We offer a general overview of the options proposed in the call for evidence. These can broadly be grouped into three categories: levies; insurance and the wind-down process for failed airlines.

Insurance

25. Insurance, including passenger opt-in/opt-out, is noted as one of the possible solutions within the call for evidence document. We support passengers taking up insurance when they travel and believe that the insurance industry has an important role to play in consumer protection, especially in terms of transfer of risk.
26. IAG is firmly against the introduction of compulsory insurance because we believe that consumers should have the right to decide what type/level of cover they require for their journey. But we can see that the provision of further information to consumers so that they understand their options for insurance, along with encouraging the insurance industry to promote new products, would provide some additional coverage.
27. It is also important for the Review to explore how many passengers did have the necessary supplier failure insurance in the Monarch scenario and whether any action was taken to identify/distinguish these passengers to ensure that taxpayer's money was not spent needlessly.
28. However, because the government appears to have taken a policy decision to repatriate all UK citizens abroad in the event of an airline becoming insolvent, it has significantly limited the opt-in/opt-out solution, because passengers will see that they will be repatriated regardless of whether they have insurance or not. We fear this means that this option has effectively become unworkable.

Compulsory Levy

29. IAG objects strongly to the introduction of a compulsory levy of the sort that are used to protect package holidays, such as ATOL. Such a scheme extended to flight only bookings is akin to further tax on aviation.
30. This is unjustifiable for the UK, even more so at this moment as the government and industry need to work together to ensure that the UK remains competitive and connected to the rest of the world. The airline industry and the government can work collaboratively to help ensure Britain is open for business (especially after Brexit), however a levy adding even more cost for passengers wishing to travel to or from the UK will ultimately be prohibitive and counter to this overall aim. It would also add additional administration and implementation costs for airlines. This suggestion, therefore, directly contradicts one of the four principles of the Review.
31. We are also concerned by this option because history shows us that any charge introduced can be amplified, ultimately to the detriment of consumers and the UK as an open trading nation. Air Passenger Duty (APD) was originally introduced by the government in 1994 as an environmental tax at the rate of £5 and £10 for short-haul and long-haul flights respectively (£5 rate for the UK/EU and £10 elsewhere). This tax is now completely out of control, with long-haul rates now levied at an extortionate £78 and £156, the highest air taxes in the world. The solution to rescuing passengers from airline insolvency is not to add further levies on consumers.

32. One of the greatest protections for consumers is to book with financially sound airlines, the Review should explore ways to improve consumer awareness of airline reliability and closely examine the CAA's role in this process.

Wind-down

33. One of the difficulties that has been identified in the call for evidence document is the issue of available capacity in the event of a large airline becoming insolvent. In the case of Monarch capacity was available, thanks largely to the coincidental availability of Qatar Airways aircraft, but it is important to recognise that this may not always be the case. As such, it would be logical to explore ways in which the insolvent airline's fleet can be used in an orderly wind-down of its operation to get passengers back to the UK.
34. We note that the imposition of a levy on airlines or passengers to pay into a fund is pointless if there is no capacity available to purchase.
35. Part of the Review's work should examine the CAA's existing monitoring practices in identifying airlines at risk of insolvency. There would be significant value in the CAA applying its expertise and harnessing the power it has to gather information in a more effective way. Regulatory intervention could mitigate some of the harsher aspects of consumer detriment when an airline faces collapse, allowing for swifter contingency measures to be put in place.
36. We agree that the Review should examine whether swifter regulatory action could limit financial exposure and we believe that the CAA has a crucial role to play in regulating the financial health of airlines.
37. Whilst we acknowledge that there are some concerns that intervention too early could hasten the collapse of an airline, we note that in other circumstances the CAA effectively regulates airlines in a robust, professional and discrete manner; the principal example being safety oversight. The Review should explore ways in which the CAA could expand its current remit and responsibilities to include insolvency risk.
38. In the case of Monarch, the Review should assess when and what action should be taken. We question whether it was ultimately in the consumer interest to be selling cheap sale tickets in the final weeks before the company collapsed.

CONCLUSION

39. IAG believes that the Review should thoroughly explore the potential that lies in improved oversight of airlines by the CAA to enable the orderly wind-down of an airline entering insolvency; improvements here could go a considerable way in preventing many of the harsher impacts of airline failure that were witnessed in 2017.
40. IAG acknowledges that the Review has outlined initial options within the call for evidence document but calls for the Review to ensure that any recommendations do not place additional burdens on passengers or airlines. Any level of market distortion, even if small, is entirely undesirable and will be to the detriment of consumers and the UK's competitiveness more generally.
41. We look forward to further engagement throughout the Review process.