

PART 8 OF THE ENTERPRISE ACT 2002 (“EA02”)

UNDERTAKINGS TO THE COMPETITION AND MARKETS AUTHORITY (“CMA”) UNDER SECTION 219 OF THE EA02 RELATING TO:

THE PACKAGE TRAVEL AND LINKED TRAVEL ARRANGEMENTS REGULATIONS 2018

TUI UK Limited and TUI UK Retail Limited (together “TUI UK”), each of registered office Wigmore House, Wigmore Lane, Luton, UK, LU2 9TN, each voluntarily gives the following undertakings to the CMA under section 219 of the EA02.

For the avoidance of doubt these Undertakings relate to the CMA's consumer law investigation into Package holiday terminations, and do not amount to an admission that any person has infringed the law.

TUI UK has fully co-operated and constructively engaged with the CMA. The CMA accepts these Undertakings on the basis of TUI UK's assurances as to:

- (i) its future conduct regarding discharging certain obligations under Regulations 12, 13, and 14 of the Package Travel and Linked Travel Arrangements Regulations 2018; and
- (ii) the significant steps TUI UK has already taken despite the unprecedented circumstances presented by the COVID-19 pandemic to comply with these obligations.

UNDERTAKINGS

In accordance with sections 219(4) and 219B EA02, TUI UK undertakes: (i) on its own behalf¹; and (ii) in respect of any third party acting in its name with its authority or on its behalf with its authority:

- not to engage in any conduct which contravenes paragraphs 1 to 7 below;
- not to engage in such conduct in the course of its business or another Package holiday business; and

¹The reference to TUI UK's “own behalf” shall include circumstances where, following the date of these Undertakings, any new or existing subsidiary of TUI UK begins selling package holidays, in which case TUI UK shall procure their compliance with these Undertakings, where relevant and to the extent the Undertakings remain applicable, until such time as the subsidiary ceases to be owned or controlled by TUI UK.

- not to consent to or connive in the carrying out of such conduct by a body corporate with which it has a special relationship (within the meaning of section 222(3) EA02).

Interpretation

1. Defined terms are set out below.

- (1) When a date or time period is specified, the obligation must be met by 17:00 hours in the time zone of the UK on the relevant day.
- (2) **“Affected Booking”** means a Package Travel Contract that has been terminated-
 - i. by or on behalf of TUI UK between 15 March 2020 to the date of these Undertakings; or
 - ii. by a Traveller between 17 March 2020 to the date of these Undertakings in either case, in connection with the COVID-19 pandemic in circumstances where the Traveller would be entitled to a Refund under the PTRs.
- (3) **“Affected Traveller”** means a Traveller in respect of an Affected Booking who made a payment to TUI UK but excluding-
 - i. Any person who has already obtained a Refund;
 - ii. Any person who has received and fully redeemed a Refund Credit Note;
 - iii. Any person with a disputed debit or credit card chargeback claim or a disputed claim under s 75 of the Consumer Credit Act 1974 in respect of the Affected Booking, as at the date of these Undertakings; and
 - iv. Any person who has rebooked the Package holiday with TUI UK.
- (4) **“Cancellation Fee”** means any fee charged by TUI UK in relation to the termination of an Affected Booking in contravention of the PTRs.
- (5) **“Package”** has the meaning set out in regulation 2(5) of the PTRs.
- (6) **“Package Travel Contract”** means a contract on a Package as a whole or if the Package is provided under separate contracts, all the contracts covering the travel services included in the Package.
- (7) **“PTRs”** means The Package Travel and Linked Travel Arrangements Regulations 2018.

- (8) **“Refund”** means a repayment of the total sum that the Affected Traveller has previously paid to TUI UK in respect of the Affected Booking (less any amount previously refunded or any amendment fees properly charged in accordance with the terms of the relevant PTRs-compliant Package Travel Contract) which for the avoidance of doubt does not include a Refund Credit Note.
- (9) **“Refund Credit Note”** means the TUI UK refund credit code communicated to Travellers with Affected Bookings which can either be used to book a future holiday with TUI UK or converted to a Refund.
- (10) **“Traveller”** means any individual who has concluded a contract or is entitled to travel on the basis of a contract concluded for the provision of a package holiday with TUI UK within the scope of the PTRs.
- (11) **“TUI UK”** means -
- i. TUI UK Limited, company registered number 02830117; and
 - ii. TUI UK Retail Limited, company registered number 01456086.

Current Obligations

2. TUI UK will use all reasonable endeavours to ensure –

- (1) Payment of the Refund to the Affected Traveller, without undue delay and by no later than 30 September 2020, in circumstances where the Affected Traveller has -
- (a) Requested a Refund or been informed by TUI UK that they will receive a Refund but has, as at the date of these Undertakings, been awaiting payment (whether for all or part of the sum originally paid and not previously refunded) for over 14 days from the termination of the Affected Booking; or
 - (b) Received a Refund Credit Note (i) on the basis that the Refund Credit Note is automatically redeemable for a Refund upon expiry and (ii) such Refund Credit Note has, as at the date of these Undertakings, both expired and not been redeemed by the Affected Traveller.
- (2) Repayment to the Affected Traveller of any Cancellation Fee paid by that Affected Traveller without undue delay and by no later than 30 September

2020.

- (3) References to “all reasonable endeavours” in these Undertakings shall, given the extraordinary circumstances of the COVID-19 pandemic, include reasonable allowance for human error on the part of TUI UK, provided reasonable steps are then taken to correct it promptly once identified.
- (4) Where for any reason a Refund or repayment is not paid to its Affected Traveller within the relevant timeframe stated in paragraphs 2(1) and 2(2) above, TUI UK will continue to endeavour to make the Refund and will record the steps taken to process the Refund and the reasons why the payment has not been made.

Future Obligations

3. (1) TUI UK will comply with the obligation in sub-paragraph (2) below in circumstances where the Affected Traveller has received a Refund Credit Note-
 - (a) on the basis that the Refund Credit Note is automatically redeemable for a Refund upon expiry; and
 - (b) such Refund Credit Note has, as at the date of these Undertakings, not expired and not been redeemed by the Affected Traveller.
- (2) In the circumstances referred to in sub-paragraph (1) above, TUI UK will, to the extent that it has not already done so as at the date of these Undertakings, no later than 14 days from the date of these Undertakings, use all reasonable endeavours to –
 - (a) remind the Affected Traveller in a clear manner of their right to a Refund; and
 - (b) where the Affected Traveller confirms that they want a Refund, make payment of the Refund without undue delay and by no later than 14 days from the date such confirmation is given.

Communications

4. (1) Each offer under paragraph 3 above will be made by communicating its availability using the following means of communication:
 - (a) sending an email to the Affected Traveller (where the Affected Traveller's email address is known); or

- (b) telephoning the Affected Traveller or Traveller; or, if more appropriate,
 - (c) sending a letter to the Affected Traveller's or Traveller's address
- (2) TUI UK shall, without prejudice to the Affected Traveller's rights under the PTRs, be deemed to have complied with any notification obligations under paragraph 3 above, where TUI UK has made all reasonable efforts to contact the Affected Traveller using the communication methods described at paragraph 4(1) but, for example, due to the Affected Traveller's failure to provide accurate contact details, TUI UK has been unable to contact the Affected Traveller or Traveller. Where an Affected Traveller's contact details are held by a third party agent rather than TUI UK, TUI UK shall satisfy this requirement by providing the relevant notification to the third party agent and requesting that the third party agent relays this information to the Affected Traveller using the contact details held by the third party agent.
- (3) For the avoidance of doubt, references to informing, notifying or reminding a Traveller (including an Affected Traveller) of his or her options or entitlements pursuant to these Undertakings may be satisfied where TUI UK informs, notifies or reminds the 'lead passenger' (or equivalent) on any group Affected Booking or Affected New Booking in line with the terms of the Package Travel Contract.

Reporting

- 5. Without prejudice to any further information notice² the CMA may send, TUI UK Limited will provide the CMA with an initial report no later than 7 November 2020, in relation to the Affected Bookings. Such report shall provide the following information:
 - (1) For each of the groups of Affected Travellers set out in paragraphs 2(1) above -
 - (a) As at 31 October 2020, where Refunds are outstanding -
 - the total number of Affected Bookings and corresponding Travellers; and
 - the total cash value of the outstanding Refunds.
 - (b) Where Refunds remain outstanding as at 31 October 2020 -
 - i. the steps that TUI UK has taken to make the outstanding payments;

² Under Part 3 of Schedule 5 to the Consumer Rights Act 2015.

- ii. confirmation of when these payments, if possible, will be made; and
 - iii. an explanation as to why payment has not been made yet.
 - (2) For Affected Bookings falling within the scope of the obligation in paragraph 2(2) above-
 - (a) As at 31 October 2020, where repayment is outstanding -
 - the total number of Affected Bookings and corresponding Travellers, and
 - the total cash value of outstanding Cancellation Fees.
 - (b) Where repayment remains outstanding as at 31 October 2020 -
 - i. the steps that TUI UK has taken to make the outstanding payments;
 - ii. confirmation of when these payments will be made; and
 - iii. an explanation as to why payment has not been made yet.
6. Following the initial report referred to in paragraph 5 above TUI UK Limited will provide the CMA with a report in relation to the Affected Bookings (on the same dates as set out in paragraph 7 below) until such time that there are less than 100 Affected Bookings where a Refund is still due (based on TUI UK's best estimates having exercised appropriate due diligence). Such report shall provide the following information:
 - (a) In relation to the obligation in paragraph 2 above, the total cash value of outstanding Refunds and Cancellation Fees, and total number of associated Affected Bookings; and
 - (b) In either case-
 - i. the steps that TUI UK has taken to make the outstanding payments;
 - ii. confirmation of when these payments will be made; and
 - iii. an explanation as to why payment has not been made yet.
7. TUI UK Limited will provide a report to the CMA on or before 31 December 2020, 31 March 2021, 30 June 2021, and 30 September 2021. Each such report will cover the previous three calendar months and will provide the following information:
 - (a) The total number of Package Travel Contracts which have been terminated by TUI UK or the Traveller in circumstances where the Traveller would be entitled to a full refund under the PTRs; and
 - (b) A break down by number of the Package Travel Contracts referred to in sub-paragraph (a) above in respect of which –

- i. the Traveller has been paid a full refund;
 - ii. the full refund was paid later than 14 days from the termination of the Package Travel Contract; or
 - iii. the payment of the full refund exceeds 14 days from termination of the Package Travel Contract and remains outstanding as at the date of the report.
- (c) Such other information as the CMA reasonably requests and notifies in writing relevant to the discharge of these Undertakings.

BY SIGNING THESE UNDERTAKINGS TUI UK LIMITED AND TUI UK RETAIL LIMITED ARE AGREEING THAT THEY WILL EACH BE BOUND BY THEM.

THESE UNDERTAKINGS REPRESENT A COMMITMENT BY TUI UK IN RELATION TO FUTURE COMPLIANCE WITH CONSUMER PROTECTION REGULATION AND PRACTICE. THESE UNDERTAKINGS DO NOT AMOUNT TO AN ADMISSION THAT ANY PERSON HAS COMMITTED ANY CRIMINAL OFFENCE OR OTHERWISE INFRINGED THE LAW.

IF HAVING SIGNED THIS DOCUMENT TUI UK BREACHES ANY OF THE ABOVE UNDERTAKINGS, THEY ARE AWARE THAT THEY MAY BE THE SUBJECT OF AN APPLICATION TO THE COURT FOR AN ENFORCEMENT ORDER UNDER SECTION 215 OF THE EA02.

THE CMA WILL CONSIDER VARYING OR TERMINATING THE UNDERTAKINGS, EITHER UPON REQUEST FROM TUI UK OR UNDER THE CMA'S OWN INITIATIVE, WHERE THERE HAS BEEN A CHANGE OF CIRCUMSTANCES SUCH THAT THE UNDERTAKING IS NO LONGER APPROPRIATE IN DEALING WITH THE ISSUES IT WAS DESIGNED TO REMEDY (EG IF THE UNDERTAKING IS AFFECTED BY NEW LEGISLATION OR CHANGES IN MARKET CONDITIONS).

Signed on behalf of TUI UK Limited and TUI UK Retail Limited

14 September 2020