Consumers and Markets Group

Toby Kelly
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By email only: tobyk@trailfinders.com

19th June 2024

Dear Toby,

I greatly appreciated the meeting with you and Sir Mike at your offices on 31st May. It very much helped me to better understand the basis of your proposals stated in your letter dated 24th May 2024. Sir Mike's letter of 14th June 2024 was also helpful in this context. As mentioned at the meeting, I am now following up to clarify the basis of various types of payments between Trustees of Accredited Bodies and the Trustees of the Air Travel Trust ('ATT') within the existing ATOL framework.

Firstly, the starting point is to restate the nature of the ATOL Protection Contribution ('APC'). The APC is a statutory charge and considered as a tax in accordance with the ONS classification and therefore it can only be changed by the Secretary of State for Transport following secondary legislation. Hence *it is not within the statutory powers of the CAA to offer ATOL holders a rebate or discount irrespective of their financial profile or whether they secure customer monies in trust or escrow Accounts.* Any such rebates/discounts require the approval of parliament and the Secretary of State for Transport.

APC is set pursuant to The Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007 at a flat rate of £2.50 per licensable passenger booking, and this is *paid by all ATOL holders* to the ATT. As agent for the ATT, it is the role of the CAA to collect APC payments on behalf of the Trustees.

Secondly, in relation to the Accredited Bodies, the role of the CAA is to exercise regulatory oversight of these entities to ensure that they adhere to the relevant regulations. Additionally, as its agent, the CAA supports the ATT in administrating any arrangements with them (see also next paragraph).

Thirdly, as mentioned in previous correspondence and at meetings, it is the ATT, and *not the CAA* that has a (non-statutory contractual) arrangement with the Accredited Bodies which requires them either to refund or, more usually, fulfil the holiday if one of their members fails. The Accredited Bodies get no practical support from the ATT or the CAA in doing this in the event that one of their members fails.

Under this arrangement it is mandatory for consumer money to be paid into a trust account, the form of which must be accepted by the CAA. Flight ticket money can be withdrawn from the account when the ticket is provided to the consumer so, at any one time, the flight and the remaining payment is secured. This makes the Accredited

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Body itself more resilient, and it also means that if the Accredited Body were to become insolvent there would not be a gap where the consumers' money should be. Please note that the agreement to hold all customer monies excluding flight ticket money in a trust account is a minimum obligation for all members of the Accredited Bodies. It is entirely the choice of each individual member if they want to hold all customer monies in a trust account until the customers return from holidays.

As mentioned above, in the event of a failure of a member the Accredited Body provides a *fulfilment service*. This arrangement has a benefit to the ATT in that it does not have to pay those failure costs itself, and it also has the advantage to consumers that they get exactly the holiday they paid for – they do not need to claim and rebook, with all of the associated disadvantages.

In relation to this fulfilment service, the ATT pays a *service charge* of £1.25 to the Accredited Body for each licensed passenger booking the Accredited Body takes. Please note that this *service charge* is paid to the Accredited Body and *not* to the individual members of the Accredited Body. It is a matter for the Accredited Body to decide as to whether they want to offer their members part or all of the benefits from the service charge. Neither the CAA nor the ATT have any role in such commercial arrangements within the structure of the Accredited Body.

The above provides an explanation of why the CAA is not in a position to deal with the proposals outlined in your letter dated 24th May 2024.

I appreciate that this might come as disappointment to you. However, I hope that the above explanation helps to clarify the construct of the Accredited Body, the roles of the relevant parties and the CAA/ATT's limitations to affect any changes.

As mentioned in our recent meeting, we recognise your achievement in building Trailfinders into a successful tour operator and being an important member of the travel industry and are therefore keen to remain actively engaged with you in how the ATOL system might be structured in the future.

Yours sincerely

Reiner Krammer
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