

Written evidence submitted by ABTA – The Travel Association

Digital, Culture, Media and Sport Select Committee Inquiry: Impact of Covid-19 on DCMS sectors

Introduction

ABTA is the largest travel association in the UK, with around 1,100 Members operating from more than 4,000 locations across the country. Our Members range from small, specialist tour operators and independent travel agencies specialising in business and leisure travel, through to publicly listed companies and household names, from call centres to internet booking services to high street shops. Combined, ABTA's Members have an aggregate annual turnover in excess of £40bn.

Travel and tourism has historically been a UK success story, and represents the third largest economic sector in the country. The industry currently employs more than 3.3m people, and makes a total economic contribution in the region of £146bn each year. More than 500,000 people across the UK are either employed directly by UK travel businesses operating within, or have jobs reliant upon, the outbound travel sector.

Executive Summary

- The global shutdown of travel has resulted in a severe liquidity crisis for UK travel businesses, with suppliers holding on to customer money and preventing travel companies from providing refunds.
- The industry is proposing temporary amendments to the UK Package Travel Regulations to approve Refund Credit Notices (RCN), which could be exchanged for alternative holiday arrangements or a full refund later. Crucially full financial protection would be retained, and no consumer money will be at risk.
- The alternative is mass insolvencies, risking the jobs of hundreds of thousands of travel workers across the UK, and customers being faced with even longer delays to receive refunds as the government and regulators step-in to fill the void. In that scenario, UK taxpayers could be faced with a bill of up to £4.5bn.

Background

For UK tour operators and travel agents, the FCO's indefinite extension of their advice against "all but essential international travel" means business has now stopped altogether. The cessation in new bookings is coupled with thousands of customers demanding a cash refund, as they are entitled to under existing consumer protection law. To make matters worse, as intermediaries, many travel businesses themselves have not yet received money back from their suppliers, including airlines and hoteliers. When combined with the additional financial burden of repatriation costs, this situation has created an unsustainable financial pressure on UK travel businesses.

A major, and unintended, cause of the distress facing the travel industry is that existing consumer protection regulations, at national and European level, are entirely unsuited to deal with a situation whereby the global travel industry has effectively been shut down.

Indeed, the European Commission has acknowledged as much, issuing clear guidance intended to provide some flexibility around the implementation of the Package Travel Directive and Passenger Rights legislation. A growing number of European countries, including Denmark, France, Germany,

Italy, Malta, and Spain, have now taken the lead of the Commission, announcing temporary regulatory measures to preserve the future of their national travel industries. It is imperative for the survival of many travel companies, and thousands of their employees across the country, that the UK Government now also acts in this regard.

The situation is reaching crisis point, and further delay or prevarication will result in an outcome that favours nobody, causing many UK travel businesses to declare insolvency, increasing unemployment and delaying refunds for consumers by many, many months.

Temporary changes to consumer protection legislation and government guidance

ABTA is asking the Government to recognise the unprecedented nature of the situation, and is proposing the following temporary amendments to the Package Travel Regulations:

- That regulatory action should be taken to confirm the arrangements that refund credits should be allowed as an acceptable and enforceable alternative to immediate cash refunds, with all protections carried forward as part of the refund credit.
- That the 14-day window in the Regulations for refund payments should be extended to ease the burden of cashflow concerns. ABTA would propose that the CAA and BEIS Approved Bodies be given the flexibility to review and extend the period up until 31 March 2021, so long as insolvency protection remains in place under the relevant scheme of financial protection authorised by the Regulation.
- That tour operators should not be responsible for providing refunds if these costs are not recoverable from the suppliers (for example, the hotel or airline). Where those suppliers cannot or will not refund, there needs to be an emergency government consumer hardship fund to fulfil refund payments.

These changes would ensure customer rights are preserved while buying time for normally healthy travel businesses to keep trading. Full enforcement of the UK Package Travel Regulations would, at this time, precipitate the needless failure of many travel businesses. That would, in turn, put increasing pressure on schemes of financial protection – ATOL; the BEIS PTRs Approved Bodies; some insurance-based schemes; unsupervised Trust Account arrangements and Credit Card Merchant Acquirers.

Crucially, while the changes ABTA propose would provide vital breathing space for travel companies, there is no financial risk involved for the consumer. If a travel organiser were to fail despite all the measures being brought in, the consumer will be in no worse a position. Delayed refunds would be documented as a 'Refund Credit Note'. This could be redeemed against replacement travel services or for a cash refund at the end of the Note period.

Whilst the scenario above involves a delay for consumers in receiving their money, or booking a replacement holiday arrangement, the alternative is unlikely to bring any consumer benefit whilst presenting a far worse financial outcome for the UK taxpayer. It is important to stress, with complete candour, that the absence of government action at this time will inevitably lead to the insolvency of many travel companies. This will in turn cause those customers affected to draw upon existing financial protection mechanisms (Air Travel Trust Fund and BEIS approved bodies) to meet the obligation for refunds. In that scenario, the vast majority of the financial protection liability for those failed holiday arrangements will fall upon the Government, as the ultimate financial backer of the ATOL regime, which covers all air-based organised travel, as well as the Civil Aviation Authority as the regulatory oversight body for the Air Travel Trust Fund.

To give an indication of the scale of the issue, ABTA estimates consumer monies at risk at £6.8bn, of which approximately £4.0bn sits directly with the DfT via the CAA run ATOL scheme, and the remaining £2.8bn sits with Government-approved bodies or compliance mechanisms. Processing the large number of consumer refunds that would result from multiple failure, especially at this time of disruption, will take regulators and the Government a significant period, resulting in a longer delay than would be involved in the industry-proposed 'Refund Credit Note' system.

Appropriate responses by financial payments companies

ABTA has urged officials from BEIS, DfT and HM Treasury to work closely with regulators and trade bodies across the financial sector to ensure a proportionate response is being adopted by other actors in the financial protection environment. In particular, we are asking that officials work with the Payment Systems Regulator (PSR) to examine the operations of Merchant Acquirers, who, in light of the pressures on financial payments systems following the COVID-19 outbreak, have been found to be varying terms, typically by restricting the flow of payments to the merchant, through increased retentions and security demands. This is happening at the very moment the changes can least be accommodated by businesses with reduced cash flow.

ABTA also has serious concerns about the way in which Section 75 of the Consumer Credit Act (1975) is being implemented, with banks and credit card companies seemingly adopting an overly permissive approach to the application of chargebacks. The current actions of the credit card companies, and merchant acquirers, are only adding to the financial and administrative burden on travel companies. The Government should work with UK Finance, and the entire sector, to make clear what is expected, and to ensure that a proportionate and reasonable approach is being adopted by all stakeholders. If required, ABTA would urge the Government to consider temporary legislative amendments to the Consumer Credit Act to ensure that businesses are not being forced into a situation of insolvency. This is a particular problem for the UK's travel agency community, which is overwhelmingly made up of small businesses, and is thus hitting hardest those that are least able to weather short-term, unforeseen, financial shocks.

Applicability of announced business support measures to the travel industry

ABTA has concerns about the existing Government support measures and how these are being implemented to date. In particular, we have been contacted by numerous businesses within the sector regarding the structure of the Coronavirus Job Retention Scheme, which requires companies to furlough staff in order to access the 80% salary support on offer. At a time of significant disruption, travel businesses are extremely busy ensuring that customers affected can be repatriated or assisted in destination in the most appropriate manner. This places an enormous strain on the staff working in travel, but it is a vital and valued part of the proposition that organised travel offers consumers, support and expertise when things go wrong. When customers require their services more than ever, it is operationally impossible for travel businesses to furlough large numbers of their operational staff. However, with revenues entirely non-existent, support is desperately needed to ensure salaries can be paid and longer-term redundancies avoided. As such, ABTA urgently requests the consideration of a mechanism to enable business, who are not currently eligible to receive salary support, to keep staff employed in vital frontline service roles active in the workplace.

ABTA has also been contacted by several Members, of various business models and sizes, to express their confusion and frustration when trying to access the short-term funding options made available to businesses. There is clearly concern across the travel industry, and elsewhere in the wider economy, about the number of companies that cannot take advantage of the current Government funding schemes owing to overly restrictive and inflexible eligibility criteria.

However, in the long run, unlike other sectors, loans simply will not be a viable way through this crisis for most travel companies. The travel industry operates on very low margins, and businesses would simply not be able to afford the interest incurred whilst also trying to rebuild capacity after this crisis.

Conclusion

The situation is now reaching a critical point for the future of many businesses operating in the UK travel industry. In the absence of any additional regulatory support to date, politicians from across the political spectrum must now work together with the travel industry to avert mass insolvencies across our sector, and the many thousands of job losses that would bring about. There is no time to spare in seeking a solution at this point, and the industry needs the Government to consider pulling all of the levers at its disposal, both regulatory and fiscal.

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