



## Department for Transport

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*Dear Jenny,*

Thank you for your contributions to the Air Travel Organisers' Licensing (ATOL) Bill at Grand Committee stage in the House of Lords on 11 October. I am grateful for your support and the collegiate approach that you are following. I am now writing to provide you with further information in relation to the point you raised about the potential need for additional trust funds and if the Government has plans to apply for additional trust funds to be set up.

The Government is taking the opportunity now to introduce flexibility in the Air Travel Trust arrangement which funds the ATOL scheme. At present there is a single ATOL fund (Air Travel Trust or ATT), which has worked, but this one-size-fits-all approach may not always be the optimal approach to cover a broader variety of business models and products with markedly different risk profiles.

Traditionally consumers bought package holidays with all the travel services (flights, accommodation, transfers), included in one arrangement put together by the tour operator. Against this backdrop the ATOL scheme was created to protect against the risk of a tour operator failing. Fundamentally, the ATT is a risk pooling arrangement, which are generally most effective for grouping similar sized risks with similar characteristics. However, with the development of online business models and greater variability in the types of products and businesses being protected, the ATT is increasingly departing from this principle.

I shall set out a possible example of why government in the future may wish to introduce new trust arrangements, in order to manage new risks in the market. We will implement a new EU Package Travel Directive next year through the Package Travel Regulations and ATOL Regulations, which will introduce protection for a new concept of Linked Travel Arrangements (LTA). LTAs have been introduced to bring protection for consumers against the insolvency of a trader that has facilitated the sale of a combination of travel



services, but where the ties between the businesses involved are looser than in the sale of a package holiday. This could be where a consumer books a flight from an airline website and they are then given the opportunity to 'click-through' to another provider to book accommodation for the same trip but as an entirely separate transaction and contract. The key difference between a package holiday and an LTA is that only the first travel service (eg. the flight or hotel) bought through an LTA arrangement is protected. While this is less protection than a package holiday, in many cases it will be more protection than currently applies to this type of transaction.

In our consultation in autumn 2016 we asked industry whether they currently sell these models or expect to. The responses revealed that only a very small proportion of today's products would fall within the LTA category, but that may not always be the case. Ultimately, if this concept is taken up by the market, then it might be prudent to ring fence that risk with its own funds to avoid greater cross-subsidy and exposure across businesses with vastly different risk profiles.

The Bill will provide greater flexibility to introduce separate funds if we consider that provides a more effective way of managing different types of risk. In the consultation there was broad support for the inclusion of LTAs in the ATOL scheme, where they involve the protection of a flight. However, in doing so, some stakeholders suggest it should involve a separate fund, levy and branding if the protection offered is any different to the ATOL package protection. Clause 2 will provide greater flexibility to do that.

At this moment, the Government does not have any plans to introduce any new trust arrangements, but we will continue to monitor the development of the market and we believe it is important to have the ability to do so should the situation require it in future. This position is also supported by the Civil Aviation Authority. During the evidence session for the Common's Committee, Richard Moriarty (CAA's Director of Consumers and Markets) said it would be prudent and sensible for Government to have this flexibility to respond to potential changes in how consumers buy their holidays.

As well as Government's aims, there is also a legal duty in section 71B of the Civil Aviation Act 1982 to consult on any regulatory changes made under section 71A. Any regulations brought forward under this provision must follow the affirmative resolution procedure, so that both Houses have an opportunity to scrutinise their content and effect. In any case, it would remain our intention to ensure that the ATOL scheme continues to provide effective protection for consumers, as it always has done.

We are currently working with the Civil Aviation Authority (CAA) to finalise the best way of implementing Linked Travel Arrangements that include a flight. We will seek views on our proposals as part of the consultation on ATOL regulation that will be published by the end of this year at the latest. As we

have done previously, we will follow the prescribed steps before full implementation. We will analyse the responses, finalise the regulatory proposals and publish a Government response and final Impact Assessment

I do hope I have given you the clarity that you sought. I will place a copy of this letter in the library of both Houses.

*Kind Regards*

*Martin*

**LORD CALLANAN**