



ATOL REFORM CONSULTATION SURVEY 2011 Executive Summary of Results

During August 2011, SPAA Council undertook a survey of all Members, to elicit views on the aims, objectives and content of the current UK DfT Consultation on ATOL Reform – including proposals for the introduction of a new Flight Plus category to the system. These views will be incorporated into the SPAA's formal Submission to Government in response to the Consultation, and inform the Association's ongoing engagement – with colleague travel organisations and their Members; other stakeholders, and Government in connection with this vital matter.

The views of Members who responded – c85% of which group have ATOL Licence cover - are summarised in the attached Appendix to this Executive Summary, and the key outcomes follow.

It is evident from the responses that SPAA Members unanimously agree with the overarching view of SPAA Council – the Association believes firmly that a clear, transparent and comprehensive system of consumer financial protection, protecting all travel and related products sold in the UK, is both vital and desirable. This is evidenced in Members' responses regarding the SPAA vision for a new system, and their disinclination to take advantage of the Government's current moratorium on new regulation for micro-businesses.

- **PROPOSED REFORMS NOT FIT FOR PURPOSE** 100% of Members disagree with the ATOL reforms currently proposed by Government, and all agree with the SPAA's vision for a new financial protection system - based on a contribution from each APD payment, or on a customer levy collected on each air-based transaction above a minimum value

Against this backdrop of total disagreement with the proposed ATOL reforms, Members have nonetheless expressed the following views in connection with the detail of the reforms :

- **AIRLINES MUST BE IN ATOL** 100% of Members believe that airlines and click-through transactions must be included in any new or reformed ATOL system
- **'NO' TO MICRO-BUSINESS MORATORIUM** c85% of Members believe that the current Government 'red tape' moratorium for micro-businesses (ie 10 or fewer employees) should not be extended to any new or reformed ATOL system
- **FLIGHT PLUS ARRANGER LIABILITY MUST BE LIMITED** c82.5% of Members believe that any Flight Plus Arranger liability, when replacing services lost in a supplier failure, should be limited to no more than the original cost of the service (c75% of this group), or the original cost plus 10% (c25% of this group)

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- **ATOL CERTIFICATES – INTRODUCTION TIMELINE NOT ACHIEVABLE** c80% of Members would have to change their office systems to issue ATOL Certificates, and c70% of Members could not make such changes by the Government's proposed introduction date of 01 January 2012. c85% of Members believe that any ATOL Certificate introduced must be in electronic format (albeit printable)
- **AGENCY AGREEMENTS – COMPLIANCE + TIMELINE NOT ACHIEVABLE** Although c60% of Members either have or could obtain formal Agency Agreement from their partner suppliers, c60% would have difficulty in obtaining such formal Agreements within the Government's proposed timescale

The Survey allowed for and encouraged Members to include free-format comments to supplement their individual responses, and a number of these are particularly worthy of repetition in this Executive Summary :

- 'Would the ATOL Certificate be any clearer than the ATOL Receipt, as there could be a combination of ATOL and non-ATOL elements within the same booking?'
- 'Nobody wants their money back – they all wish a replacement holiday!'
- 'ATOL should be devised in such a way that no liability should fall on any travel agent'
- 'How would other, possibly non-refundable components of a Flight Plus be protected/capped? For example, a flight + cruise where the airline fails two days before departure, and it is not possible to refund the cruise element due to the cruise line's T&Cs'
- 'Who is to draw up the Agency Agreements – supplier or agent? Either way, the likelihood of being able to do this before 01 January 2012 is extremely slim'
- 'The current system does not work – the proposed system will not work unless there is a level playing field, with airlines and operators offering the same level of protection. I do not agree with the Flights Plus ATOL reforms for this reason (ie 50% of travellers will still not be protected by the ATOL system). Meanwhile, agents and operators are put under further financial pressure, and have added liabilities in the event of any failure – including airlines!'

SURVEY CONCLUSIONS It would be fair to say that the immediately foregoing comment represents a generally sound overview of the collective views of SPAA Members who have commented, and responded to our Survey. First and foremost, our Members do not believe that the ATOL reforms proposed by Government meet the stated aims and objectives of any of the stakeholders involved – not least the Government itself, and were it to be the case that these reforms were introduced regardless of such strong and informed opinion, it is evident from our Survey that they are so flawed as to be impractical – both in terms of their structure and the timeline for their implementation.

GOVERNMENT OBJECTIVES FOR ATOL REFORM In her Foreward to the UK Department for Transport's ATOL Reform Consultation Document, the Minister of State (The Rt Hon Theresa Villiers MP) cites three key Government's objectives in addressing the matter of consumer ...

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... financial protection :

- fair treatment for consumers, via legislation which is fair and proportionate for business
- clarity, transparency and coherence, leading to a greater proportion of travel arrangements being protected
- elimination of the ATTF (Air Travel Trust Fund) deficit, and its ongoing replenishment

It is clear, bearing in mind the numerous instances of impracticality in the proposed reforms, raised and demonstrated at recent SPAA and ABTA seminars and workshops, and the concerns expressed by SPAA Members in their responses to the Survey, regarding the timelines for implementation of the reforms as proposed, that the Government cannot achieve either of the first two objectives with these reforms – either for consumers or businesses. The SPAA will evidence a number of these impracticalities in its Consultation submission.

It is entirely possible, perhaps likely, that the ATTF will experience further calls on its funds as a direct result of the imposition of the reforms as proposed on the travel sector. Not least, given the continued exemption of airlines from the ATOL system under the proposed new regulations, there is at least a real possibility that these further calls will be provoked by an airline failure.

SPAA VISION FOR NEW FINANCIAL PROTECTION Recognising the historical and legislative difficulties inherent in the introduction of an APD (Air Passenger Duty) related consumer financial protection system, the SPAA re-asserts its longstanding and consistent vision for a new system which fully meets the Government's stated objectives for reform – a modest customer levy, charged on each and every travel and related services transaction over a minimum value, providing absolute and comprehensive financial protection (a hybrid of the so-called 'Dutch model'). Such a system would not only meet all the Government's objectives for reform – fairness, clarity, coherence, and deficit elimination / ongoing ATTF funding, but it would also neutralise the debate regarding the inclusion of airlines in the system.

The SPAA will prepare and submit its formal response in connection with the Government's Consultation on ATOL Reform with this vision, and its Members' views firmly in mind.