

**Consultation on Reform of  
ATOL Bonding Arrangements  
& the Replenishment of the  
Air Travel Trust Fund.**

Call for Options from the  
Department for Transport

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June 2007



# Response to Call for Options to Air Passenger Contribution (APC)

## Introduction

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1. MAMMA proposes that, in essence, the prime consideration within this review is **consumer protection against airline failures**.
2. As such, the ATTF and ATOL bonding is not necessarily the only way this can be achieved. Rather than tinkering with the present system, it maybe expedient to take stock and re-think how this part of consumer protection can be addressed and integrated within one insurance product. Consumer protection should be looked at in its entirety. Airline failure is only a part of what a travelling consumer needs to protect himself against. To continually 'split' this need for 'protection' into isolated, independent aspects makes for an inefficient and costly solution overall. There is a much simpler, more efficient and transparent way of providing for airline failure

Thus it may prove unnecessary to replenish the ATTF in order to provide financial protection for air package holiday travellers in respect of airline insolvency via the ATOL bonding licensing system, the ATTF and the proposed APC.

3. There is a 4<sup>th</sup> Option – which would provide protection not just for package holiday-makers but for ALL air travellers.
4. Within the travel industry, there is disagreement with regard to the viability of ATOL bonding, the protection it is meant to afford and utter confusion for the consumer, the end user who, ultimately, pays for the 'insurance'. For example:
  - CAA says dynamic packaging still need ATOLs
  - FTO calls for dismantling of ATOL system
  - ATOL protection levels decline by 5.7%; failures nearly doubled
  - OFT 'disappointed' at ABTA financial protection scheme changes
  - ABTA must by-pass Westminster and look to Brussels
  - ATIPAC – industry in a state of confusion over consumer protection

- Agents ‘mis-selling’ travel insurance face regulation
5. What is indisputable is that ATOL bonding (with its associated increased costs for businesses in respect of licensing, monitoring and compliance) does not prevent airline failures and that the present ATTF does not protect ALL airline travellers.

## 4<sup>th</sup> Option

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6. To incorporate via a comprehensive travel insurance policy<sup>1</sup>, an ‘opt out’ component which would provide financial compensation in cases of airline failure.
7. This would have the benefit of:
  - (a) Providing cover (if chosen) for ALL travellers irrespective of whether travel arrangements were through a ‘packaged holiday’, independently booked or with foreign air lines. Consumer protection has to be the ultimate consideration.
  - (b) Reducing industry costs by negating the need for ATOL bonding, compliance monitoring, enforcement etc. This would meet the policy objectives of reducing the burden on tour operators consistent with the principles of ‘better regulation’.
  - (c) Simplification for both industry and the consumer.
  - (d) Any loss to the insurance industry by the cessation of ATOL bonding would be replenished by consumers’ take up of comprehensive travel insurance.
  - (e) No burden on taxpayer.

## Implementation of 4<sup>th</sup> Option

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8. MAMMA has suggested it is incumbent on HMG to ensure that all travellers can benefit from a truly comprehensive travel insurance product and to this end proposed the introduction of Trauma travel insurance (Tti). Tti was suggested as the mandatory base level for all travel insurance policies.
9. It was also suggested that consumer choice could be increased by ‘tailor-made’, flexible comprehensive travel insurance. By offering

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<sup>1</sup> Integrated with compulsory Trauma travel insurance.

various components, consumers can select which ones they need or wish to benefit from - airline failure being just one. Not everyone needs the reassurance of being financially compensated should the airline or tour operator fail, though the option to insure against this risk should be available.

This proposal supports HMG's stated principle<sup>2</sup> that it is the responsibility of the travelling consumer to take out comprehensive travel insurance to provide himself with compensation or support should anything untoward happen whilst overseas. Without the insurance industry offering this product, it is impossible for the consumer to do this.

10. There is a tremendous amount of consumer confusion with regard to the available protection afforded the traveller – even under existing travel insurance policies. The travel industry is in a state of flux with 'benefits' being changed and reduced in many areas giving consumers less protection than they believe they have.

There is a plethora of acronyms such as ATOL, ABTA and ATT. Few consumers are fully aware of what they mean, how they are protected and so on. The implementation of Tti and extension of the provision of elements such as airline failure within a 'comprehensive' travel insurance policy would mean that consumer protection was 'simplified'

11. A simple analogy to this proposal is 3<sup>rd</sup> Party car insurance. This is mandatory and few drivers take out the minimum. Instead, more often than not additional elements eg 'fully comprehensive' are chosen. Increasingly, new options such as car breakdown, protection of 'no claims' bonuses are being offered and chosen. Similarly, it is suggested that if Tti becomes a mandatory insurance, consumers will take the opportunity (if offered) of choosing to protect against various other contingencies such as airline failure. This is the simplest, most cost effective, transparent method of protecting the consumer.
12. Acknowledging that the ATTF is in deficit and that the government would not volunteer to honour its guarantee, for a period of time, it is suggested arrangements could be made to 'off set' this deficit from a contribution from each travel insurance policy sold.

## Resume of Trauma travel Insurance

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13. In MAMMA's response to the Treasury's Call for Evidence on Travel Insurance regulation in February 2007<sup>3</sup>, MAMMA set out the reasons why the introduction of compulsory 'Trauma Travel Insurance', Tti should be considered. A summary of Tti is outlined below.

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<sup>2</sup> Foreign and Commonwealth Office's Report: 'Support for British Nationals Abroad: A Guide'.

<sup>3</sup> See [www.mamma.org.uk](http://www.mamma.org.uk) for full report

14. Of relevance to this discussion is the result that if ‘airline failure’ is incorporated within travel insurance (suggested as an ‘opt out’ in a travel insurance contract) there is **NO requirement for ATOL bonding and all its associated costs.**

15. **TRAUMA TRAVEL INSURANCE** would have **NO** exclusions and would include provision for medical costs, repatriation in cases of accidents, illness or death no matter how caused, investigation of crime, disappearances, abductions, legal representation on arrest/trial, family support such as additional travel costs and translation facilities.

(a) This can be achieved by making Trauma travel insurance the basic mandatory requirement of all travel insurance contracts.

(b) As the FCO advises all travellers to take out travel insurance, it is incumbent on HMG to ensure, through legislation, that travel insurance is CAPABLE of fulfilling a protective and supportive role for ALL British citizens irrespective of age, health or incident whenever they leave the UK.

(c) Legislation to make Trauma travel insurance<sup>4</sup> compulsory would mean all British travellers would have the benefit of this base level insurance cover.

(d) It is suggested that Tti should not be subject to insurance tax premium or Value Added Tax.

(e) Additionally, traditional, insurable elements such as:

- Lost Luggage
- Lost passport/money
- Delayed or cancelled travel arrangements
- Travel Agent/Tour Operator failure
- Life insurance
- Disability insurance
- **Transport provider failure** ... etc

could be made available on an optional basis – opt in and opt out – depending on consumers’ needs. This would increase consumer choice and market differentiation.

16. The end result would be a truly comprehensive travel insurance package available to all Britons who leave the UK.

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<sup>4</sup> Only Tti would be compulsory, all other parts of a comprehensive travel insurance policy would be voluntarily chosen enabling a flexible, ‘best fit’ policy for the consumer.

## Benefits of Trauma travel insurance

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- 17.** Tti would be the mechanism to fund an independent support system analogous to the UK's statutory services.
- 18.** For the first time, ALL travellers would be protected against contingencies not previously covered and yet are more essential than insurance for inconveniences such as lost luggage or delayed flights.
- 19.** Every Briton who leaves the UK is 'at risk'. Tti means everyone contributes to a service that potentially may benefit each and every person at some point in time.
- 20.** Tti's simplicity of NO exclusions would reduce consumer confusion whilst confidence in insurance and the support available would be enhanced.
- 21.** Tti would not place a burden on general taxation or erode business profit margins. Cost would be directly paid by the consumer.
- 22.** Tti would reduce the increasing number of calls for help on British Embassies and Consulates.
- 23.** Tti would have a 'knock on' effect by helping families in the UK deal with traumatic incidents, which have occurred abroad in a much more effective and compassionate<sup>5</sup> way. At present, the consequence of coping with overseas traumas by UK residents is a 'hidden' but real cost to society.
- 24.** Tti negates the impact of any government declaring an incident as 'terrorism based'. This categorisation presently invalidates many insurance policies. Why something happened or who is responsible becomes an irrelevant issue from an insurance perspective. What is important is dealing with the incident equitably.
- 25.** Tti, if made compulsory, would effectively increase the insurance industry's sales through all outlets.
- 26.** Tti would not affect competitiveness within the travel insurance market but could have the effect of reducing costs in several other travel related areas.
- 27.** Tti with the addition of optional insurance to cover airline failure negates the need for ATOL bonding. Dismantling the ATOL system would reduce many operators' costs enabling a greater level playing field within the travel industry on a world wide basis.

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<sup>5</sup> National Audit Office's Report: 'Review of Experiences of United Kingdom Nationals Affected by the Indian Ocean Tsunami' highlighted the need for 'empathetic' responses to traumas.

## Conclusion

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**28.** The consultation document states that the objectives of the reforms proposed are:

- a) Simplify
- b) Replenish the ATTF
- c) Ensure industry meets full cost of financial protection for air package holidays required by EU and UK legislation
- d) Help improve consumers' awareness that their holiday is ATOL protected

**29.** a) and d) can be achieved in a more effective way by MAMMA's proposal which negates the need for b). Financial protection is for the consumer and, as such, should transparently be paid for by the consumer not 'hidden' within industry costs as suggested in c)?

**30.** All too often, the glaringly obvious is overlooked. Once more MAMMA makes no apology for the simplicity of the proposed suggestion. Whilst recognising that there will be a few losers eg within the CAA, there are many more winners. Ultimately this is the consumer. Hopefully, MAMMA's proposal will be seriously considered, in conjunction with Tti, allowing what is really important to surface.

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[www.mamma.org.uk](http://www.mamma.org.uk)

HMG	Her Majesty's Government
FCO	Foreign & Commonwealth Office
EU	European Union
CAA	Civil Aviation Authority
ATOL	Air Traffic Operators' Licence
FTO	Federation of Tour Operators
OFT	Office of Fair Trading
ABTA	Association of British Travel Agents
ATIPAC	Air Travel Insolvency Protection Advisory Committee
Tti	Trauma Travel Insurance