

## **Chartered Trading Standards Institute (CTSI) response to DBT call for evidence for: Package travel legislation: updating the framework**

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This response is being sent on behalf of The Chartered Trading Standards Institute and has been compiled by the expertise of CTSI members.

### **Question 1. What consumer protections are particularly important for those holidaying in the UK and why?**

CTSI state, the primary purpose of the PTRs is to ensure that Tour Operators<sub>2</sub> selling package holidays in the UK provide;

- Insolvency protection, protecting consumers money.
- Repatriation of the consumer if the Tour Operator goes into administration whilst they are on holiday.
- Consumers with confidence by ensuring the proper performance of the travel services in the package.

Flights between UK airports are popular, linked with accommodation, as are coach trips involving transport and accommodation. As an example, when Shearings Holidays collapsed in May 2020, there were around 64,000 passengers either on holiday or about to travel imminently. Luckily Leger Holidays agreed to take over many of them to avoid damaging the reputation of the coach market, but getting paid for them turned out to be far from easy.

In many cases they had forgotten to get assignments from customers before they travelled, and the Bus and Coach Council, who had held the allegedly insufficient bond refused to pay out. In fact, the crisis caused them to stop all bonding arrangements which were passed onto ABTOT (approved by DBT for the insolvency protection of package Holidays) for future protection.

Domestic holidays are not always cheap - cruising around the Scottish Highlands on board a small ship is very expensive. The indication in the consultation is that if regulation is removed, more businesses will come into the marketplace and possibly prices might fall.

Customers need protection and need confidence that their money will be protected and the package elements carried out as described. CTSI understands that the consultation asks whether all domestic packages should be removed from the PTRs or just those involving travel.

### **Question 2. Domestic-only arrangements should continue to be in scope (whether including transport or not) of the PTRs as they are now.**

CTSI considers that Domestic-only arrangements should continue to be in scope of the 2018 Package Travel and Linked Travel Arrangement Regulations

To support our comments, our First Tier Advice Service (Citizens Advice) provided statistics on the complaints they receive concerning holidays. In providing the below complaint statistics they added, "We agree that UK consumers need protection when buying UK holidays, as our statistics highlight".

From May 2021 to May 2022 the figures were as follows:

Holidays Abroad (including package holidays, all-inclusive holidays and cruises) - 4,407

UK Holidays (including Hotels, Guest Houses, B&B's, self-catering, UK package holidays and tours) - 6,927

There were, over 50% more complaints from 2022 to 2023 relating to UK domestic tourism in this period.

To ensure up to date figures for the consultation we asked for more detail to be provided and found:

From January 2022 to August 2022

Holidays Abroad (see detail above) - 3090

UK Holidays (see detail above) - 4127

From January 2023 to August 2023

Holidays Abroad (see above) - 2244

UK Holidays (see above) - 2636

The latest data still shows 33% more complaints regarding UK Holidays.

**KEY POINTS** from these statistics;

- There is no justification for excluding domestic packages from the legislation.
- Domestic packages should have the same protection as foreign package holidays.
- If a consumer makes arrangements with a provider that also sells travel services from third parties, and who takes payment for everything, why should they not also take the responsibility for delivering the services?
- For example, what happens if a consumer drives to their holiday destination, has train journeys (excursions like the steam trains etc.) booked as part of the arrangements and the train services are cancelled.
- CTSI find it hard to find any justification for excluding domestic packages from the legislation. They may not be as expensive as a three-week safari in Africa but for the customers involved, they are equally costly in their terms.
- The collapse of Shearings Holidays in May 2020 is the perfect example of why protection is necessary, at the time of failure it had 64,000 forward bookings which were protected by a bond held by the Confederation of Passenger Transport. The average age of passengers was in the mid 70's and they would not have found it easy to get home from deepest Cornwall or Northern Scotland.

The consultation highlights the four travel services highlighted in the PTRs

**1. Transport...**This is the carriage of travellers in the PTRs and includes flights, rail travel, boats and coaches.

**2. Accommodation**

**3. Motor Vehicle Hire**

This includes car and motorcycle hire.

**4. Any other tourist service**

These are services that are not linked to the carriage of passengers, accommodation or motor vehicle hire but make up an essential element of the package. Examples of other tourist services are tickets for concerts, sports events and the theatre.

In the consultation there is a suggestion that there could be a change to the PTRs so that 'transport' plus either of 'accommodation' or 'other tourist services or motor vehicle hire' would be required for a booking to fall under the PTRs. UK Tourism suggest this would remove the unnecessary and burdensome requirements that stop companies from offering – and consumers from benefitting from – innovative and value-added UK packages.

The PTRs specifically require that 'other tourist services', make up an 'essential element' of the package. This does not stop Domestic Organisers offering innovative and value-added packages, but ensuring consumers are protected when purchasing this type of package.

These are the essential elements of the PTRs and ensure domestic packages have this protection.

CTSI is aware that UK (Domestic) holidays are not always cheap, cruising around the Scottish Highlands on board a small ship is very expensive indeed. Whilst considering the positives of deregulation we do not agree that if regulation is removed, more businesses will come into the marketplace and possibly prices might fall.

The consultation asks whether all domestic travel should be removed or only those packages that do not involve travel. An example is given of a customer who makes his own way to a hotel which provides a package of accommodation and tickets for a sporting event. CTSI maintain that customers need positive protection and examples have been given above.

**Question 3. is directed at Operators**

**Question 4. Would removing domestic packages from the scope of the regulations support businesses to: a) offer more choice? b) offer lower cost options? c) both? d) neither? e) something else?**

Clearly from the detail above CTSI consider that to delete domestic tourism from the PTRs would be detrimental to consumers and compliant businesses.

**Question 5. What impact do you think the pandemic has had on demand for domestic holidays? What attitudes and behaviours do you think consumers might have towards domestic packages going forward? Please cite any evidence.**

Consumers had little option but to take UK holidays (Staycations) during the pandemic as foreign travel became very restricted and CTSI were looking for any indication of particular advice/action/reporting and investigation of travel and holiday complaints, which may give a pointer as whether TSD's were having problems.

The figures stated above give you an idea of the problems for consumers who relied upon UK operators to provide holidays, if they were possible.

Complaint levels indicated mostly that the domestic holiday was of acceptable quality but CTSI did find some Operators reliant upon 'terms and conditions' which were unfair, mainly dealing with cancellations. These happened a lot as during the pandemic various areas were not allowed to accept consumers and, in the case, below, were providing unfair cancellation policies, where consumers couldn't always travel as they were diagnosed with Covid.

A young couple were getting married and had booked a cottage in Devon for their honeymoon. The booking was made before Covid-19 and both the wedding and honeymoon had to be postponed when Covid hit. The couple had paid a deposit of £1190.

The trader only offered one date as an alternative, but the wedding had to be postponed much later in the year for all guests, so they asked for a refund. The trader refused and referred the couple to their booking conditions, which stated - 'all deposit payments are non-refundable'. A day later the couple looked on the website and found the cottage had been re-let.

The couple requested a refund again, but were told that **all** deposits were non-refundable. The couple stated they could not travel to St Ives and it was an unfair term to refuse a refund, especially as the cottage had been resold.

The TSD took action as they felt the term 'no refund is available in any circumstances' is unfair and action was taken under the Consumer Rights Act.

Consumers were keen to take domestic holidays but complaints increased.

**Question 6. Do you think that a minimum cost threshold should be set below which package travel rules should not apply? Please explain why and what impact you think these proposals could have on businesses and consumers. Please cite any evidence that informed your position.**

To CTSI this is a completely new idea which had never been discussed. It appears DBT are looking at prescribing a price above which the package must be offered for the PTRs to apply.

Any package sold for less than this price would be completely exempt. The idea in the consultation is that it would reduce the burden on cheap operators, and as less money would be at risk, the customer would benefit from lower prices.

CTSI experience would highlight problems for consumers seeing package holidays offered, but being required to have no insolvency protection or any requirement to ensure the proper performance of the package. Those buying at the lower end of the market surely need equal, if not more, protection as they would be less likely to be able to lose the money or fund their own way home if stranded abroad.

The consultation asks whether the threshold should be based upon the total price of the package, or the average cost per head of packages sold, or the deposit required. This suggests that maybe if that idea was followed, operators could sell high priced packages with a low deposit and avoid the rules.

CTSI considers this to be a very detrimental step, and in the view of CTSI, this would open the market to scammers and those offering misleading descriptions and pricing of packages.

**Question 7. If there were to be a minimum threshold, do you think it would be most appropriate for a threshold to be set?**

CTSI feel this idea should be strongly opposed. For example, every time there are flight delays, the customers claim that on the last day of their holidays they have no money left to pay for food or overnight accommodation, and airlines, who may have a duty of care to look after customers, often offer paltry valued vouchers, as low as £3 in some cases.

**Question 8. Do you think the regulatory position on Linked Travel Arrangements should be: a. kept as it is; or b. simplified; or c. incorporated into the definition of a package; or d. removed from the Regulations?**

CTSI prepared a Policy paper on this question which was entitled, 'Wish you were clear' which was sent to DBT prior to the consultation. In regard to Linked Travel Arrangements, CTSI made a number of recommendations, prepared a Public and Stakeholder poll and published the results in this Policy paper.

The key points in the paper state;

- Consumers are currently confused about the protection they receive when booking a package holiday
- Most consumers questioned in a public poll don't know what a linked travel arrangement is, let alone what protection it provides them
- Sometimes consumers may think they are booking a package holiday when they are booking a linked travel arrangement (LTA)
- Package holidays and LTA's have different levels of protection, which consumers do not appreciate
- Most stakeholders questioned in a poll think that regulators don't understand LTAs
- There is almost universal agreement from stakeholders that LTAs provide less financial protection to UK consumers than package holidays and the vast majority

think the definition of LTAs is problematic

- Most consumers support a Government review of LTAs

CTSI would like to start this review of the LTAs by firstly explaining what a package holiday consists of:

‘An operator, agent or online travel agent (OTA) can sell a package holiday by combining at least two different types of ‘travel service’ for the purpose of the same trip or holiday. The business will also be responsible for insolvency protection and all elements of the package holiday’.

Consumers have told us there is major confusion when they consider whether to book a package or LTA.

For example, when a consumer goes onto an airline website to book a flight. A flight is chosen and paid for by the consumer. In the confirmation details, there is a link to another website selling a selection of hotels and the consumer clicks on the link. There are now two scenarios a consumer has in deciding whether to purchase, one leading to a package, and another to an LTA:

If a consumer clicks on the link and accesses the other website, and their name, payment details and email address automatically appear this would be a package, as long as the consumer purchases the hotel within 24 hours. The airline would be responsible for providing all the protections required (insolvency protection and full responsibility for the package).

If the consumer clicks on the link and accesses the other website, and they decide to purchase a hotel within 24 hours, but because their name, payment details and email address don’t automatically appear, it becomes an LTA, with the airline becoming the ‘facilitator’, providing only insolvency protection for itself. In this scenario, they do not provide full responsibility for the whole package, but only provide repatriation if the airline collapses whilst the consumer is abroad. No refund will be made if the hotel becomes unavailable.

The Public poll cited in the CTSI policy paper shows that consumers are confused by LTAs, which provide less protection than package holidays. But more importantly, the public polling evidence suggests that the vast majority of the public don’t know what a linked travel arrangement is, with older people being less likely to understand and the number growing as the age of the respondents increase.

The polling also suggests that legislators need to make the law as simple as possible for

consumers to understand, so that they are protected from being misled or losing money.

Almost 1 in 5 (18%) of the public, in the poll, felt that they were more protected when booking an LTA rather than when booking a package, which is obviously incorrect.

Given the above reasons, CTSI is calling for LTAs to be removed.

There is widespread belief within the travel industry, trade associations and amongst consumers that the LTA system is broken; it isn't working. CTSI's stakeholder poll reports that even travel organisers may not realise that they have created an LTA, nor understand the obligations that fall on them to make the customer aware of what is (and is not) protected.

In short, customers are confused, businesses are confused and even regulators have concerns. The definition of an LTA is too complex and the recent public poll conducted, on behalf of CTSI, found that even after being given a definition of a linked travel arrangement, just over 73% of respondents said that they still found the difference between a linked travel arrangement and a package holiday confusing or that they didn't understand at all.

In CTSI's recent stakeholder poll amongst consumer organisations, trade associations, independent travel experts, journalists, the travel industry and enforcers, the vast majority of stakeholders either agreed or strongly agreed that LTAs provide confusing financial protection.

The stakeholder poll also found that the vast majority of stakeholders:

- Either aren't sure, or think that regulators don't understand LTAs
- Are not aware (or are not sure) of a regulator ever having challenged an operator over the selling of a LTA
- Believe that the definition of LTAs is problematic
- No stakeholder thinks that travel organisers realise when they have created an LTA, or understand the obligations that fall on them to make the customer aware of what is (and is not) protected.

**Question 9. If you think the definition should be simplified, what would you consider the best way to do this and why?**

CTSI believes that LTAs, which offer less protection for consumers booking holidays than traditional package holidays, are not fit for purpose and should be removed from the PTRs.

CTSI sought further evidence from Citizens Advice regarding the LTA complaint levels.

Citizens Advice stated that they did not see complaints about LTAs in 2021 or 2022. LTAs are very complex and this either infers that the consumer service are not getting these complaints, or that advisers are unable to identify LTAs due to their complexity.

From Jan 21 to December 21 - 18,364 complaints for holiday or flight complaints but No LTA specific complaints.

And Jan 22 to December 22 - 19,792 complaints - again, holiday and flight complaints, but No LTA specific complaints.

Citizen's Advice were asked for any examples where there was confusion. Partly the reason for no LTAs is that there is no specific category of complaint, just holiday complaints and flight complaints. Below are complaint examples highlighting the obvious confusion:

1. My partner and I booked a package holiday to Las Vegas from Heathrow. There were no problems with the outward flight but our return journey consisted of 2 flights, 1 from Vegas to Los Angeles then Los Angeles to London Heathrow. The first flight was delayed and we missed the connection and were booked on a flight the next day. They never gave us any explanation and just booked us onto the flight the next day. This meant we landed approximately 18 hours after our scheduled arrival time. The airline is saying they don't have to pay compensation under EC261/2004 as their linked travel arrangement was an intra-US flight arrangement
2. A traveller had been trying to get a refund from a Holiday Company. The traveller was meant to have transfers to and from the arrival airport, but they didn't arrive. The traveller believes the tour operator sold the transfers, and it should have been a linked travel arrangement
3. A traveller booked a holiday with a Tour Operator 8 weeks ago. A 5\* holiday break. The traveller was told a week before departure that due to being out of season most facilities at the hotel would not be available. The trader is asking for the traveller to pay if they would like to move hotels. The traveller said they thought they had bought a package, not paying separately for a linked hotel arrangement.

The examples above support the CTSI position for the removal of LTAs from the PTRs. Customers are confused, businesses are confused and Trading Standards, as regulators, have major concerns.

**Question 10. Which information requirements are particularly important? Please explain why you think this.**

**Question 11. Which information requirements do you think could be removed or reduced whilst still ensuring consumers receive the information they need?**

**Question 12. What would be the impact on businesses and consumers of simplifying the information provision requirements.**



At present when a package or LTA is sold, the customer should be given a specific set of information as set out in the schedules to the PTRs. CTSI suspect many are not given this information at the present time. CTSI does have a view on simplifying the information requirements.

Prior to this view it is helpful to refer back to the Public Polling in the 'Wish you were clear' CTSI Policy document. The results suggest that Legislators need to make the law as simple as possible for consumers to understand, so that they are protected from being misled or losing money.

Almost 73% of people either only skim read the Booking Conditions provided to them when booking a holiday or don't tend to read them at all. Just 27% of respondents read the Booking Conditions thoroughly.

The top five reasons for not reading them thoroughly are:

- Too much information is provided and it puts them off (34%)
- They are too complicated (32%)
- I don't have time (24%)
- They are all more or less the same (23%)
- I've been on plenty of holidays without needing to read them (16%)

The law requires that a lot of information is given to consumers, who then don't read it. Currently the PTRs require a lot of information to be given to consumers, with the information required being itemised in 10 schedules. That immediately introduces complexity and confusion for organisers, retailers (high street and online) and consumers, and the wording is unnecessarily complex, even if all of this 'Essential Information' is actually provided to consumers (which CTSI believes is questionable). CTSI believes that 'Essential information' which is required for the protection of consumers should appear in a 'bold, precise and compelling manner'.

CTSI's stakeholder poll shows a majority of stakeholders agree with most of CTSI's recommendations of what should be included in 'Essential Information' when booking holidays. CTSI believe changes are needed to:

- Effectively give more protection to consumers, by making it absolutely crystal-clear whether they are booking a package holiday or not
- Spell out to consumers that with the legislation as it is, if they are not booking a package holiday, then the protection they get will be different. Consumers would need to know what their protection is so that they could make an informed choice about buying independently or a package
- Consumers could then choose to buy a non-protected holiday (just as they choose to travel without travel insurance), but that choice must be made very clear to them - organisers such as travel agents and tour operators shouldn't pretend that consumers are covered when they are not

- Information provided during the booking process needs to be clearer, along with details of the protection consumers have when things go wrong
- Holidays are the most expensive purchase a consumer is likely to make, after a property and a vehicle. In the midst of a cost-of-living crisis, it is particularly important that consumers are protected from making what could be a costly mistake
- Currently, consumers are confused about the protection they receive when booking a holiday - they may think they are booking a package holiday, but they may in fact be booking separate elements, which are totally out of the scope of the PTRs
- CTSI believes that LTAs, which offer less protection for consumers booking holidays, than traditional package holidays, are not fit for purpose.

Simplifying the wording and information provided to consumers from travel organisers (e.g., travel agents and tour operators).

This is particularly important regarding the 'Essential Information' to be provided, removal of repetition, and use of simple headings to make information given to consumers far more user (and business) friendly. Links to more detail can be provided, but the initial information needs to be short, clear and easy for the consumer to read and understand. Such information must be provided before a contract is entered into.

Currently 'Essential Information' which the PTRs prescribe is set out in 10 legal schedules, which CTSI believe is way too complicated and lengthy for consumers. We also believe it is unlikely that all of this information is actually provided to consumers when booking a holiday, particularly if a holiday is booked over the phone. We have proposed what we believe 'Essential Information' should be included to help consumers.

The 'Essential Information' provided could be preceded by a clear and simple warning, such as: 'You are entering into a package holiday agreement and, as such your flights and/or accommodation are protected in the event of insolvency. Please be aware that, if you are not booking a package, your flights and/or accommodation are not necessarily protected in the event of insolvency.' The consumer could be asked to confirm that they understand before proceeding with the booking.

CTSI believes that the following 'Essential Information' should be provided, in the following simplified format, to ensure that it is read and understood by consumers before proceeding:

### **Information relating to the holiday itself**

Full details of the holiday

Full details of the organiser and retailer, including address, telephone number and email address

Total price (itemised as applicable) and how and when payment is required

If there is a minimum number of people required for the trip, that number and when the consumer will be notified

Passport and visa requirements

Information about insurance, and the costs of cancellation/termination

### **Information which you may need prior to, or during the holiday**

Emergency contact details

Transfer of the package (with costs)

Termination of the contract by the consumer (with costs)

Your rights if details of the package change after it has started

Compensation in the event of problems

What will happen in the event of insolvency

### **Information with regard to liability and protection of your money**

Details of any special requirements

Details of the protection if the travel service provider goes bust and who provides the protection. For example, will the consumer be brought home free of charge?

Who to contact in the event of problems while away

Information with regard to unaccompanied minors

Details of complaints procedures

Responsibility for additional services provided during the holiday

**Question 13. To what extent would increased flexibility in insolvency protection help businesses to meet their obligations under the Regulations?**

**Question 14. Would there be any challenges associated with increased flexibility in insolvency protection, particularly for compliance and enforcement**

**Question 15. In what other ways could the cost to package travel businesses of securing insolvency protection be reduced without compromising consumer protections?**

This query relates only to non-ATOL packages, as the CAA are currently reviewing ATOL packages, and we expect another consultation by the end of the year. Currently there are three options to provide protection in the PTRs,

- Bonding
- Insurance against failure and
- Trust accounts. If a business is using a trust account, it must also have insurance to cover the cost of repatriation and accommodation from the moment of failure to the date of return. Currently trusts cannot be combined with bonding.

DBT intended considering changes to the insolvency protection requirements in the PTRs and the latest detail provided stated:

“We’re planning to set out an alternative model of compliance which allows businesses to set up a trust account and using a bond to ‘top up’ the amount not protected and the amount required to repatriate (i.e., similar to the trust plus insurance model). I don’t know how popular this model will be but it seems sensible given the CAA are investigating moves towards trust accounts too.”

No great surprise here, although non-flight packages, are substantially different than ATOL protected flight-inclusive packages. CTSI concerns are really how complicated it becomes.

CTSI are aware that the insolvency protection issue is highlighted because there is major concern with Tour Industry lawyers regarding the responsibilities of Organisers during the recent pandemic. The scenario below was happening on a regular basis and led to major insolvency protection issues for example:

- A package holiday organiser sells a flight-inclusive package to the traveller
  - The airline cancels the flight
  - The flight cancellation means the organiser has to cancel the package and refund the traveller
  - The airline fails to refund the Organiser for reasons which may include the fact they continued flying
- Regulation 29, of the PTRs 2018 gives the package holiday organiser a right to sue the airline in these circumstances if they refuse to refund. But the refunding is **not mandatory** and is regularly ignored, leading to major insolvencies and major problems for consumers.

To avoid this continuing source of insolvency, CTSI would like to suggest that DBT consider the possibility of making Reg 29 of the PTRs 2018 **mandatory**. As the EC are considering in their PTD consultation.

Trust accounts are becoming more popular as a means of insolvency protection and we support the model set by Reg 24 of the PTRs, whereby money can be withdrawn from the trust account, as long as insurance is in place to cover any shortfall in the event of insolvency. The withdrawal must be only for the payment of suppliers however, and not to pay general business or office overheads, such as wages or electricity. The situation is complicated and unless you can resource Trading Standards to check these kind of details, Trading Standards will not be aware until the Operator/Principal collapses and travellers complain. The DMCC Bill may be a way forward.

**Question 16. Does the inclusion of ‘other tourist services’ in the Regulations serve an important purpose?**

Yes

**Question 17. Is there sufficient clarity about when an ‘other tourist service’ will form part of a package?**

If it is an essential feature of the package

**Question 18. Should the ‘significant proportion’ criterion be removed from the definition of other tourist services?**

Yes

**Question 19. Is it clear what forms an ‘essential feature’ of the package, so consumers and businesses understand when a package has been created?**

Consumers are only concerned that they have bought a package, which should be made clear.

The definition of a package requires at least 2 out of four options to be sold to create a package, transport, accommodation, car hire and other tourist services (these could be theatre tickets, sports events or ski passes, for example).

In order to create a package with only one other service, they must make up a significant proportion or be an **essential element**. CTSI agree to remove the ‘significant proportion’ and leave it as **an essential element**, in other words if you couldn’t get the ticket to Wimbledon or Wembley, you wouldn’t have booked the package in the first place.

Another related issue concerned accommodation providers having their own golf course, spa, swimming pool or tennis courts etc. CTSI were asked by DBT whether they considered these to be packages.

CTSI stated that hotels, having their own golf course or spa set up, would not be classed as selling packages as the facilities were ‘intrinsic’ to the accommodation. Anything ‘extrinsic’ in our view, when linked to the accommodation would be a package.

For example, if access is available at an additional charge, it could constitute an additional service and if it was an essential element, it could be a package.

CTSI agreed, after discussion with DBT, that their intention is that if access to these on-site facilities is part of the room rate, it should not count as a travel service in its own right, and thus would not (if combined with one of the other types of travel services above) constitute a package.

**Question 20. Do you think the definition of traveller should be changed? If so, how and what impact would this have?**

**Question 21. What do you think would be the impact of removing all business travellers from the definition of traveller?**

CTSI understand that in the PTRs, those travelling for business reasons could be excluded from protection if there is a general agreement in place between the business and the supplier of travel (a BtB arrangement).

The CTSI view, after research, is that this exists for most large businesses, but some smaller businesses may appreciate protection. The question is whether consideration has been made to exclude all business travel, without an agreement being in place, but would small businesses be likely to object and expect the rules to stay as they are,

CTSI have always enforced the rule that Business Travel is exempt unless purchased from 'consumer-based' providers (e.g., High Street Travel Agencies)

**Questions 22-25 are asking for comment from Organisers, but CTSI can comment as well on this situation.**

The pandemic exposed the risks that tour operators might be forced to refund consumers the full cost of their package holidays due to the actions of others, in particular airlines.

CTSI is aware of one operator who is currently engaged in litigation with an airline trying to recover payments, running into millions of pounds, as the airline claimed to be continuing to fly despite UK government orders preventing customers from travelling due to the pandemic.

The PTRs allow for claims to be made under Regulation 29 but the wording is imprecise, and the airline has so far resisted all demands, and the matter is likely to end up in the High Court next year at great expense.

As already highlighted earlier in our comments, CTSI would like to see Regulation 29 being made **mandatory** to ensure there is no delay in repaying the customer and organisers do not, as happened during the pandemic, go into administration as their suppliers refuse to refund.

**Question 26. What are your views on how well the Regulations operated during the COVID-19 pandemic?**

- Question 27. Do you think any changes should be made to the Regulations to account for extreme extenuating circumstances impacting the ability to pay refunds quickly?**
- Question 28. If so, what factors do you think should be considered as part of a definition of extreme extenuating circumstances?**
- Question 29. Are there other changes that should be made to the Regulations considering the pandemic and if yes, what are they?**

As detailed in the Consultation, there were extreme problems with Regulation 12(7) and Reg 15 of the PTRs (the 14 day period requiring refunding for cancelled package holidays due to the pandemic).

The pandemic caused consumers (and business) severe problems, specifically relating to Reg 12 (7) of the PTRs. If a package holiday has to be cancelled (in this case due to Covid), the travellers could request a refund (which should have been made within 14 days).

If a traveller was prepared to accept an interim, protected (in case of organiser collapse), Refund Credit Note (RCN), then there should have been an expiry date on the RCN, at which time the refund should have been made.

UK organisers had problems obtaining refunds from foreign suppliers and airlines and depended on these RCNs.

For flight-inclusive packages, the Government, through the Treasury, decided to fund ATOL protected RCNs rather than immediate refunds.

CTSI were aware of the considerable problem with consumers unable to obtain refunds where their package holidays had to be cancelled due to the pandemic. It worked with the CMA to resolve issues for consumers, but considered RCNs may have been a positive way forward, as recognised by the Government, who supported the issuing of ATOL protected RCNs for flight inclusive packages.

The Covid-19 pandemic hit consumers and the travel industry hard. The way we will travel has changed and the impact will be felt for many years to come. The industry will need stability and CTSI are encouraged that the Government has committed to retaining EU protections, such as compensation for flight delays, cancellations and overbooking.

The EC, in their consultation on the Package Travel Directive, supported the use of protected RCNs, if acceptable to the consumer. CTSI supports a change in the PTRs to reflect the use of RCNs, as long as this complies with the following criteria:



CTSI were instrumental in raising awareness about scams during Covid, like the following:

A 'Government' branded email scam offering a Council Tax refund due to Covid-19. The link which consumers accessed, took them to another Government branded page asking for the applicant's name, address and banking details so a 'refund' could be made. Hopefully the DMCC Bill will provide Trading Standards with the ability and power to enforce the law during very difficult times - like the pandemic.

Working with the police during the pandemic was important, and CTSI hope issues like the below example, can be resolved quickly and efficiently without waiting to go to court, which would be delayed during a pandemic. Again, a very good reason to enhance Trading Standards powers - through the DMCC Bill.

A hot tub party host who told officers he 'didn't believe' in Covid-19 laws has been ordered to appear in court. Police were called to reports of a party in Nottingham. When they arrived, they found people from five different households mixing, eight adults being in the Hot Tub. The host was cautioned, will eventually be fined and will be taken to court if ignored. 10 people at the party were given a fixed penalty. Police added the 32-year-old had refused to give his details, and when they tried to explain the law, he told them he 'didn't believe in the Covid-19 legislation' and continued to be obstructive.

Finally, during the pandemic, consumers were confused by the conflicting statements concerning Foreign, Commonwealth and Development Office advice (FCDO).

Consumers relied upon the Government, but more specifically FCDO advice as to whether they could travel to destinations outside the UK.

FCDO advice banning non-essential travel to specific destinations during the pandemic, we had to explain to consumers, did not guarantee a refund under the PTRs Reg 12(7).

CTSI would like to recommend that FCDO advice becomes mandatory so that consumers and business are aware when package holiday cancellations have to be made.

**Question 30. What are your views on relaxing territorial restrictions on insurance cover for insolvency protection providers to allow supply by those regulated outside the UK?**

**Question 31. What impact would doing so have on the cost and quality of cover?**

At present insolvency protection cover policies must be issued by an insurer based in the UK, Channel Islands or Isle of Man. The reasons are clear - their finances can be checked easily, they must be registered and regulated by the FSA and there is no obvious reason to change that rule.

Trading Standards discovered that a major provider of trust accounts was using a Malaysian insurer, whose bona fides could not be checked, and who obviously had no UK protection in place and it appeared that the company concerned had asked that the UK rule be removed with the concept that it could lower costs.



CTSI see no reason to expand the requirements.

**Question 32. Are there any parts of the information requirements where you think change is particularly needed to ensure the requirements stay up to date?**

Please see CTSI response to Questions 10-12 above.

CTSI would also like to highlight in this response to the consultation, two further very important issues relating to the PTRs:

Firstly, CTSI recommends that there should be a 'sector-specific offence' created in the PTRs of providing incorrect or false or misleading information to consumers relating to package holidays (as was the case in the 1992 PTRs), rather than just relying on the Consumer Protection from Unfair Trading Regulations 2018 (CPRs).

CTSI also requests that they should be given increased enforcement powers and obtain higher penalties for breaches of the PTRs. Currently, Trading Standards and the Civil Aviation Authority (CAA) are joint enforcers of the PTRs. The CAA purely focussing on flight-inclusive packages (the ATOL regime) and Trading Standards enforces the rules on non-flight packages and Linked Travel Arrangements.

Government is currently considering enhancing powers of the Competition and Markets Authority (CMA) to rule on breaches of general consumer law and directly impose fines without the need to go through the Courts. CTSI believe this could be used in relation to issues concerning package holidays.

CTSI believe that powers enforcing consumer law, without having to go to Court, should be given to Trading Standards for breaches of the PTRs. Trading Standards would then have the power to:

- Decide whether a business has breached consumer law (such as the Package Travel Regulations)
- Direct the business to stop the infringement and to provide redress to consumers (such as compensation)
- Order the business to pay a financial penalty

In the CTSI recent stakeholder poll, nearly three-quarters (72%) of stakeholders agree that a sector specific offence of providing incorrect or misleading information to consumers when booking package holidays should be created.

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