

## ATOL Reform: assessing the impacts of the options for reform – request for further information

### CAP 2496

### CAA Consumer Panel response

#### *Background*

The CAA Consumer Panel is a non-statutory critical friend, giving expert advice to the Civil Aviation Authority (CAA) as policy is being developed, to ensure aviation consumer interests are central. We are a group of independent experts, who bring together deep consumer expertise and experience along with strategic thinking, applying these in a practical way to improve the experience for aviation passengers. Our role is to champion the interests of consumers.

#### *The Panel's approach to this consultation*

We have approached the CAA's request for further information (RFFI) through the lens of our role as the CAA's critical friend<sup>1</sup> and responded to those questions which are most relevant to aviation consumers and not those of a more technical nature which are aimed towards industry stakeholders. These questions are signposted below.

This response builds on our previous response<sup>2</sup> to the CAA's 2021 consultation on ATOL reform (CAP 2151)<sup>3</sup> and takes account of the CAA's summary of responses document<sup>4</sup> (CAP 2151A) and the RFFI itself.

#### *General comments*

We welcome this consultation and consider there is a strong case for rebalancing how the ATOL scheme is funded to protect consumers. We agree with the CAA's expressed aims for ATOL reform<sup>5</sup> and strongly support the CAA seeking to achieve these aims while still facilitating a competitive market that provides choice, and value to consumers as well as appropriate protection. We also agree that any new framework should aim to better incentivise ATOL holders to put in place more robust financing structures and protection of advance consumer monies and take a more systematic approach to ATOL holder risk.

In general terms, the Panel considers that the CAA's preferred outcome for ATOL reform should meet the following indicators: be affordable, deliver robust financial resilience and be proportionate to the value of the holiday and the risk profile of the ATOL holder.

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<sup>1</sup> See link for further information - [Consumer Panel Terms of Reference](#).

<sup>2</sup> See link for further information - [Consumer Panel response to CAP2151](#) .

<sup>3</sup> See link for further information - [CAP2151](#).

<sup>4</sup> See link for further information - [CAP2151A](#).

<sup>5</sup> (a) to strengthen the ATOL financial framework to better ensure that ATOL holders meet their obligations towards consumers and mitigate the risk posed to the consumer monies they hold; and (b) to ensure that pricing (i.e. the APC) better reflects the risk that individual ATOL holders or the value of their bookings pose.

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Regarding the RFFI, while sometimes difficult to navigate due to the interdependencies and permutations of different options under consideration, we find it is well written and the options are clearly explained and well signposted. Likewise, the questions to stakeholders are well formulated and targeted in areas where further information is needed. We particularly welcome the consumer research questions (questions 20 – 22). These provide a degree of ‘consumer focus’ in a consultation which is primarily designed for the consumption of industry stakeholders, where the direct consumer voice can be easily lost in the technicalities of detailed proposals and outweighed in the context of diverse (and often contradictory) industry stakeholder views.<sup>6</sup>

In this context, we are pleased that the CAA took on board our feedback to undertake consumer research<sup>7</sup> to help inform its decisions on ATOL reform and that its findings have been reflected in the RFFI which we consider have generally been summarised accurately (see paragraphs 4.30 – 4.40). However, we feel more could have been done to:

- draw out and embed the findings from this research throughout the RFFI; and
- more clearly set out the possible implications different ATOL reform options might have for consumers in reference to the research where this is possible.

In other words, we feel more could have been done to explain the “so what” in terms of what different options could mean for consumers, not just industry stakeholders. We note that the CAA has done this to some extent<sup>8</sup> but would encourage it to go further as part of future work to finalise its approach to ATOL reform.

### *ATOL Protection Contribution (APC)*

In our previous response, we said on balance that we support a hybrid risk and value-based approach where the value of the holiday and the risk profile of the ATOL holder are both taken into account. This could create a fairer and more proportionate system in which financially sound ATOL holders are not in effect subsidising riskier financial practices by others, which is a cost ultimately borne by the consumer through the APC.

With this in mind, we are minded to agree with the principle that a discount to the rate of APC should apply where the ATOL holder provides a greater level of direct protection than is required by the terms of their ATOL licence (question 10). As explained in our earlier response, this should ensure that companies at greater risk of failure contribute proportionately, incentivise more effective and less risky business models and also help to mitigate risks to higher value bookings.

However, we also note that 2CV’s consumer research revealed that respondents were less supportive of the idea of charging for ATOL protection based on the riskiness of the holiday company. This was driven by a concern that consumers would be able to infer the level of riskiness of particular companies from their APC rate. This could discourage consumers from booking with such companies which in turn could drive riskier but still viable businesses into liquidation. We highlighted this risk in our previous response, noting that mandated transparency might have the effect of creating self-fulfilling prophecies.

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<sup>6</sup> We note that only 5 consumer bodies responded out of 305 respondents – See page 8 of [CAP2151A](#).

<sup>7</sup> See link – [Consumer Research](#).

<sup>8</sup> See paragraphs 4.4 – 4.15 in the RFFI which include some references on how potential options can be expected to translate into impacts on consumers. For example, paragraph 4.5 draws out what improved industry resilience could mean for consumers.

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We also note the findings from 2CV's consumer research on the APC (summarised in paragraphs 4.39 and 4.40 of the RFFI). Among other things, the research found that consumers considered that an APC rate below £10 was acceptable for most respondents with a rate below £5 considered to represent great value for money and £2.50 being considered a bargain. We are mindful that when reaching the view that the current APC is value for money, consumers might not have factored in other costs they might incur in the event of a repatriation which in part could be due the optimistic mindset they have when booking holidays. Therefore, we consider these results should be viewed with a degree of caution.

### *Consumer research*

Regarding question 20 in the RFFI<sup>9</sup>, the CAA's latest wave of the Aviation Consumer Survey<sup>10</sup> (ACS) found that:

- As in 2021, almost two-thirds of respondents believed their last holiday was ATOL protected.
- The majority of consumers (83%) think it is important that their holiday is ATOL protected.
- 7 in 10 consumers think that it is more important to have an ATOL protected holiday since the pandemic.

The latter point in particular suggests consumers place more value on ATOL protection since the pandemic. The results of the ACS should also be considered in the context of 2CV's consumer research.

We also note that the Financial Services Compensation Scheme (FSCS) conducted research in September 2022 to explore consumer awareness and understanding that the FSCS protects different financial products.<sup>11</sup> There might be learnings from this (and other) research around how consumers view and value insolvency protection which could be relevant to the CAA's plans for ATOL reform.

Regarding question 21<sup>12</sup>, the Panel agrees that the research appears to show consumers expect and trust that their chosen holiday company has the financial resources to deliver their holiday. Consumers associate the well-recognised ATOL protection brand with 'peace of mind' and an implicit assumption that the company in question should financially be able to deliver on their holiday.

Regarding question 22, based on 2CV's research findings we think it's reasonable for consumers to expect their selected travel company to have financial contingencies in place to deliver on their

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<sup>9</sup> Are you aware of any other research that can provide insights into consumers' attitudes towards insolvency protection? In particular how consumers view and value insolvency protection when purchasing a holiday and their expectations on the financial resilience of the travel companies they book with.

<sup>10</sup> See link for further information – [Aviation Consumer Survey](#)

<sup>11</sup> See link for further information – [FSCS research](#).

<sup>12</sup> Do you agree or disagree with the CAA's view that, although the research revealed that there is little indication that most consumers spontaneously think about how travel companies finance their operation, this attitude is very strongly underpinned by the belief that their chosen holiday company has the financial resources available to deliver their holiday?

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holiday, without necessarily knowing or needing to know further detail. Consumers expect the CAA's vetting process to ensure companies have safeguards and financial contingency measures in place. While this suggests that further detail on contingency measures might not need to be provided to consumers, it underlines the importance of the CAA ensuring its new framework requires companies to have robust financial contingency measures which should be closely monitored.

However, we also note this should be balanced against the well-established best regulatory practice principle of sharing relevant information with consumers to help inform their choices and decision-making. The CAA should give further thought as to what information should be provided to improve consumer awareness and confidence in the ATOL scheme, without creating unintended consequences or the effect of self-fulfilling prophecies as noted above.

### *Concluding comments - next steps and transition to new framework*

Overall, we welcome CAA's RFFI and take comfort from its detailed approach to appraising options for ATOL reform. As noted above, we feel more could have been done to set out the possible implications different options for ATOL reform might have for consumers - not just industry stakeholders - and would like to see this addressed as part of the CAA's future work on ATOL reform.

Regarding the move to the new framework, we welcome the CAA's commitment to ensuring an appropriate transition period which should be orderly and offer stability across the industry. We also welcome the CAA stating that during any transition period, it will continue to apply its existing licensing framework and ensure the continued financial robustness of ATOL holders, including putting in place additional financial security measures where needed.

We would appreciate an update from the CAA in due course and would be happy to engage with the policy team if there are any further clarifications or questions that would benefit from a discussion with the Panel.