Consumers and Markets Group

Modernising ATOL: CAA response to consultation feedback

CAP 1677

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Introduction

Executive summary

This document comprises the CAA's published response to the feedback from stakeholders responding to its consultation "Modernising ATOL"[1] published in February 2018. The document should be read in conjunction with Modernising ATOL.

It accompanies the publication of a new version of the CAA's Official Record Series 3 (ORS3), which includes ATOL Standard Terms for licences, required Agency Terms, ATOL exemptions, Accredited Body Standard Terms, and other ATOL information published by the CAA.

Having considered carefully the responses received, the CAA intends to implement most of the proposals in Modernising ATOL, but in some cases changes have been made. The proposals relating to the implementation of relevant aspects of Directive (EU) 2015/2302 on package travel and linked travel arrangements ("PTD": see glossary) are being implemented in full and will take effect on 1 July 2018. The measures intended to enable ATOL holders to transition to the new licensing arrangements (broadly, enabling some aspects of current arrangements to persist until ATOL holders' current licences come up for renewal in either September 2018 or March 2019 accordingly) are being implemented in full.

In addition to those measures, and in view of industry concern over the time and resources required to comply, the CAA has identified three additional areas where it will adapt the proposals to make compliance more achievable.

First, in the light of feedback the CAA has decided to defer the implementation date of some of the measures that are not required for the implementation of the PTD. This affects proposals on how consumer information is displayed, which must now be in place by 1 April 2019.

Second, in addition, the CAA will not, at this stage, introduce the proposal that ATOL holders which advertised a specific flight must secure it straight away. We still intend to implement such a measure by 1 April 2019, but we intend to work with key stakeholders later this year in relation to developing the precise wording of the obligation.

Finally, the CAA acknowledges the travel industry's view that there is insufficient time for some changes, particularly system changes, to be made. We have decided to take a proportionate approach to the enforcement of compliance. ATOL holders are expected to

[1] http://publicapps.caa.co.uk/docs/33/ModernisingATOLConsultationFINAL1.0.pdf

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take steps to comply immediately, but for a period of three months our enforcement stance will be focused mainly on monitoring and gaining confidence that ATOL holders are taking steps to become quickly compliant. After that, we will review progress on an individual company basis. We would expect to intervene and consider taking action where businesses' plans to comply are inadequate and having regard to whether there is a material risk of consumer detriment.

There is a full list of required changes, including information on when they must be implemented by and which groups are affected by them, in Appendix B on page 23.

The remaining measures in Modernising ATOL are not features of ORS3, and the outcomes will be developed over a longer time horizon. The proposed online ATOL Certificate system is still undergoing a feasibility study, and feedback from the consultation was passed to the project team. A decision on whether or not to proceed is expected to be taken during 2018/19. Government is minded to bring forward separate legislation in early 2019 to implement civil sanctions for the ATOL scheme.

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Related legislative developments

There are three main strands in the UK by which the Package Travel Directive is implemented.

The Department for Business, Energy and Industrial Strategy (BEIS) is the sponsoring department for the UK's implementation of the Package Travel Directive 2015. Other than arrangements for insolvency protection for package holidays including a flight, the Directive is implemented in the UK by the Package Travel and Linked Travel Arrangements Regulations 2018. BEIS has laid new draft Regulations before Parliament and they are expected come into force on 1 July 2018.

The Department for Transport (DfT) is the sponsoring department for ATOL. DfT published the ATOL (Amendment) Regulations 2018 on 8 June 2018 and they will come into effect on 1 July 2018.

The CAA implements ATOL under powers it is given by the ATOL Regulations, and the ORS3 is made under those ATOL Regulations. Where requirements set out in ORS3 derive from the CAA's powers under the ATOL Regulations those requirements also have legal effect.

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Chapter 1

Implementing the Package Travel Directive into ATOL

Schedule of ATOL standard terms

Stakeholder feedback and CAA response

Many respondents were supportive of the CAA's aim to increase transparency and clarity for consumers but some expressed concerns on the proposals to achieve this and the timescale. They did not rule out adopting some such measures in the future but argued it was sensible to implement and imbed the necessary PTD changes before introducing further ones. Any such changes should then be subject to industry consultation, with a sufficient lead-in time to develop IT systems and train staff. Some respondents considered the proposals to be 'gold-plating' as they were not required by the PTD, and some believed that the cost to the industry would be disproportionate to the benefit to consumers. The changes for all of the ATOL standard terms will take effect from 6 July except where specifically noted.

ATOL standard term 1 (Providing information to consumers before and after sale)

The CAA had proposed changes intended to enhance the information ATOL holders provide to consumers, either to enhance consumers' awareness of the protection afforded to them before they book and pay, or to bring standards to a level that the CAA believes is necessary to implement disclosure aspects of the Consumer Protection Regulations properly, as follows.

ATOL disclosures

The CAA proposal was to amend AST 1.4 to make more specific requirements on when and how ATOL protection should be disclosed during the sale process. Respondents who were not supportive expressed concerns at the additional technical development work involved and the consequential time and resource costs. There was also a concern as to whether it would be possible to implement the changes on time. More specifically, some respondents felt that although disclosure was important, the requirement for additional information may have a negative impact on the consumers' booking experience.

The CAA believes that to achieve improved clarity for consumers it is appropriate to proceed with the changes to ATOL Standard Term 1 and ATOL Standard Term 6, as proposed. However, in recognition of the concerns at the short timescales for implementation the changes will take effect on 1 April 2019.

The consultation suggested that a consequence of the changes may lead to the removal of the statements required in publicity material. We have considered this further and concluded that there remain some benefits to clarity in retaining the statements alongside

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