



Department for
Business & Trade

Package Travel Legislation: Updating the Framework

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Foreword by the Minister for Enterprise, Markets and Small Business

Going on holiday is a much-loved and much anticipated part of the year. It is also a significant expense for families. That is why it is important for the legal framework to provide appropriate protections for consumers so they can book and enjoy package holidays with confidence, while supporting businesses to innovate and grow.

The UK Government and travel industry has a long history of providing protection to holidaymakers. With the emergence of the package market, the Government established the ATOL scheme in 1973 and the first Package Travel Regulations were introduced subsequently in 1992. The current Package Travel and Linked Travel Arrangements Regulations 2018 (“the Regulations”) set the framework for the sector and are built upon this history. The Regulations are retained EU law and were last modernised in 2018.

The Regulations set out requirements on organisers of package holidays to provide sufficient security for repatriations and refunds in the rare event of their own insolvency. The Air Travel Organisers Licence (ATOL) scheme fulfils this obligation for package holidays that include a flight. The Secretary of State for Transport is responsible for the ATOL scheme, and the Civil Aviation Authority (CAA) administers the scheme on his behalf.

The Department for Transport (DfT) and the CAA are working on a programme of ATOL reform, which is exploring measures that will improve industry resilience and improve the financial self-sustainability of the scheme. DfT and CAA are currently assessing options, before bringing forward the planned consultation on the preferred option. In parallel to the reforms, DfT is also reviewing the enforcement options available to the CAA to ensure that they have the right tools to maintain effective compliance with the ATOL scheme. In addition, the DfT recently published its response to the Aviation Consumer Policy Reform consultation, which included a commitment to consult further on compensation and payment frameworks for flight disruption. We will continue to work closely with DfT and the CAA throughout this call for evidence and afterwards to ensure a collaborative approach to any future policy development or changes.

Since they were last reviewed, the COVID-19 pandemic has demonstrated the importance of the Regulations for consumers. This was a very challenging time for the travel industry, which continues to rebuild strength.

The Government’s intention is to retain the key safeguards of consumer protection that underpin the Regulations whilst making the most of the opportunity to reshape the regime, so it delivers for consumers and supports the travel sector to thrive.

I am pleased to be bringing forward this call for evidence as part of the next stage in the Government’s regulatory reform agenda. Smarter Regulation is about focusing on how we can improve regulation across the board, ensuring it is as clear as possible and used only where necessary and proportionate.

Thank you for engaging with us over the coming weeks. Your input and that from those offering package holidays and from those representing consumer interests will be invaluable in shaping an effective UK framework.

Kevin Hollinrake MP
Minister for Enterprise, Markets and Small Business

Background

Why are we calling for evidence?

The 2018 Package Travel and Linked Travel Arrangements Regulations (“the Regulations”) set a series of requirements for organisers of package holidays and Linked Travel Arrangements, which provide bespoke protections for travellers. The purpose of this call for evidence is to gain insights into how the Regulations are working and to seek views on options to simplify and rationalise some aspects. The Government wishes to consider ways to improve the Regulations and make them better suited to the needs of UK travellers and organisers, particularly as regards those holidaying within the UK.

What are the Government’s objectives for the Regulations?

The Government wants the Regulations to:

- Give consumers appropriate protections when buying package holidays, which are both a significant expense and an important leisure activity for people in the UK;
- Support the travel sector to grow and to innovate by ensuring that regulation is clear and intelligently designed;
- Maintain trust in the travel sector, so consumers have confidence in booking package holidays; and
- Enable some flexibility for business in deciding how to secure consumer protections.

How do the Regulations work?

Protections for consumers

The protections provided by the Regulations recognise that package holidays have special characteristics that justify more support for consumers, such as entering contracts for services that may not be taking place for some time.

The time lapse between purchase and the holiday taking place can make consumers more vulnerable to the impact of supplier insolvency, although companies becoming insolvent is generally rare. The sector coped with the disruption of COVID-19 relatively well but many balance sheets will have been weakened. Consumers are generally unaware of the financial stability of holiday providers and can face considerable difficulty in getting a refund from an insolvent company (without the additional protection of the Regulations). There is also a risk that holidaymakers will be stranded far from home should their travel organiser collapse, creating difficulties for them in returning home.

Package holidays are often complex combinations of travel services; typically, they include travel and accommodation as well as vehicle hire and other services. As various service providers are often involved, a problem with the delivery of one service may affect the delivery of others. The traveller may find it difficult to deal with subcontractors especially if they are in another country and do not speak the language. In such cases travellers may not even have a contract directly with the service providers in that country.

Requirements for package travel organisers

The Regulations impose requirements on organisers of package holidays. Organisers are the traders who combine and sell packages; this is typically the person with whom the traveller directly deals though that may not always be the case.

The protections include making the organiser liable for the performance of the travel services making up the package and providing protection against the insolvency of package organisers, ensuring funds are set aside for travellers to be refunded, and/or where applicable, repatriated. The Regulations set out detailed information requirements that organisers must fulfil and provide to the consumer. These make it clear what product the traveller is buying and the associated rights and protections, including enabling transfer of the holiday to others and cancellation rights where significant changes are introduced.

Definitions

A “package holiday” is the combination of two or more different types of travel services which are combined for the purpose of the same trip. Currently, travel services fall into four categories: transport, accommodation, motor vehicle hire and other tourist services such as excursions, tickets to events and attractions and so on.

The Regulations also provide more limited protection for a looser arrangement of travel services called “Linked Travel Arrangements”. These also combine, in specified circumstances, two or more travel services for the same trip or holiday but which are sold under separate contracts and do not meet the requirements of a package.

The Government has published Package Travel and Linked Travel Arrangements 2018: Guidance for business, which can be accessed [here](#) and provides further explanatory information on the Regulations.

What is the Government proposing?

The Government has received representations from the sector that the Regulations work well overall but can often seem too complicated and can cause confusion for both travellers and organisers. A number of areas for improvement have been suggested which we wish to investigate. We are seeking to have in place a proportionate system where consumers know when and how they are protected and are able to make informed purchasing decisions in the light of this information. Similarly, businesses should properly understand their obligations and how to comply with them whilst being able to compete for trade.

There are some circumstances where the Regulations may no longer be fit for purpose and relevant and in these cases, the balance between consumer protections and burdens on businesses may not be right. Unnecessary regulatory burdens may stand in the way of organisers providing diverse and cost-effective options for travellers.

We are seeking views on ways to retain a high level of consumer protection while reducing the burdens on organisers. These include removing some combinations of services from the scope of the Regulations such as some or all domestic packages, or those below a

certain value. We also propose to improve the flexibility of insolvency protection provisions for non-flight packages.

The Government notes there are issues around the complexity of some of the requirements particularly those associated with linked travel arrangements which have given rise to uncertainty and confusion. The Government seeks input on altering our regulatory approach to linked travel arrangements, either by narrowing the scope of linked travel arrangements or removing them from the Regulations.

The proposals relate to the Package Travel and Linked Travel Arrangements Regulations 2018, which form one part of the legal framework in place to protect consumers. These proposals do not affect existing consumer rights including those provided by the Consumer Rights Act 2015 and rules on unfair trading (currently in the Consumer Protection from Unfair Trading Regulations 2008 but which are to be replaced by the Digital Markets, Competition and Consumers Bill). In addition, the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 and Consumer Credit Act 1974 set out consumer protections that may also be relevant to consumers in purchasing holidays. They are not affected by these proposals.

The Government is also considering changes to wider travel and aviation rules, led by the Department for Transport. The Civil Aviation Authority are currently in consultation around changes to the ATOL regime. The two regimes exist in parallel, and the Government continues to ensure that there is sufficient join up in thinking as it moves forward to develop and strengthen both frameworks. For consumers and for businesses operating in the travel sector, it is important that the overarching regulatory regime works in harmony as much as possible to support clarity and efficiency.

How rules should apply to UK-only package holidays

Summary

Currently the Regulations apply regardless of whether the package takes place in the UK or abroad. The Government is considering the case for a new formulation, exempting all packages that involve domestic only activities or exempting domestic packages that do not have a travel element.

Proposal

It has been suggested by industry representatives that reducing the number of holiday trips that fall under the Regulations would support businesses to offer more cost-effective domestic packages. This reduced burden and lower business risk could lead firms to offer new, more cost-effective domestic packages to travellers.

The existing Regulations provide extra protections for travellers in acknowledgement of the difficulty they may otherwise have in resolving issues that occur while on holiday. This could include making alternative arrangements when there are language barriers and challenges arranging repatriation if stranded overseas. As overseas trips typically include travel, the requirement to ensure funds are set aside to enable travellers to be repatriated is a key protection.

The organiser must also provide help if the traveller is in difficulty. This could mean help to find alternative travel arrangements or providing information on health services, local authorities or available consular assistance.

Repatriation is of relevance to trips with an international element. Moreover, if one element of a package falls through it may be easier for a traveller to make alternative arrangements domestically than it is when they are dealing with foreign providers. We are seeking feedback on the extent to which the existing rules are needed by domestic-package users and place a proportionate burden on businesses. There may be a case for exempting trips which do not include travel, given that this is an area where consumers can be particularly vulnerable to changing circumstances or for all domestic-only arrangements to be exempted.

We also invite views on whether removing all or some domestic packages from the regulatory requirements would support businesses to offer more choice to consumers. We are looking to encourage the provision of arrangements that involve accommodation and other tourist services, such as excursions or admission to nearby events and attractions. This could include for example a UK hotelier offering a package of accommodation with tickets for a show or sporting event but where the traveller makes other arrangements for their travel to and from the hotel at the start and end of the trip.

Options under consideration

(i) Remove all domestic packages from the scope of the Regulations

As the key elements of difficulty in repatriation is less relevant for domestic packages, we are interested in views on whether the consumer benefits of the Regulations application

domestically are outweighed by the impact of the compliance burdens placed upon businesses.

As an example of the effect of removing domestic packages from scope, should an organiser arrange travel and accommodation from the North of England to the South Coast for a holiday, the organiser would not be required to seek insolvency protection for such packages or take repatriation cover to ensure the traveller has means to get home if the travel supplier became insolvent whilst they were on holiday. Consumers would still enjoy protections under general consumer law (e.g., as regards the performance of the service or the accuracy of statements).

(ii) Remove domestic packages from the scope of the Regulations unless they include transport of passengers.

A variation on (i) above where some domestic protections are maintained. Where travellers have included transport as part of their booking, they may be especially affected by changes to the other services in the package and could be said to have placed a particular reliance on the package. There may, therefore, be a case for continuing to include these arrangements within the scope of the Regulations, regardless of whether the package takes place at home or abroad. If travel is not included, then this could suggest that the consumer is willing and able to take responsibility for a significant element of the package and is less dependent on the package performing as expected. In these circumstances, general consumer law protections may be sufficient, and consumers may benefit from increased choice arising from reduced regulatory burdens.

(iii) Keep all domestic packages in scope of the Regulations

The existing regime could be retained, whereby domestic packages are in scope of the Regulations. This would mean consumers continue to enjoy the protections offered by the Regulations and a consistent position for domestic and international packages may benefit organisers that offer both types of packages.

Questions

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

2. Do you think that:

- a. All domestic-only arrangements should be exempt from the Regulations; or**
- b. Domestic-only arrangements that do not include travel should be exempt from the Regulations; or**
- c. Domestic-only arrangements should continue to be in scope of the Regulations as they are now?**

Please provide an explanation for your answer, citing any relevant data where possible.

3. If you offer or have considered offering domestic packages, what impact does the current regulatory regime have on your decisions to put together domestic packages?

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?

Please explain your response, setting out how and to what extent this reform could lead to benefits or detriment to business.

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.

Setting a minimum cost threshold for rules to apply

Summary

Currently the Regulations apply to all packages that meet the prescribed criteria regardless of the cost of the package. The Government is seeking views on the benefits of an alternative approach whereby it would exempt from the Regulations non-flight packages priced below a minimum price.

Proposal

The Government could look to prescribe a price above which a package holiday must be purchased for it to fall within the Regulations. Firms selling packages for values below this threshold would be exempt from the Regulations with respect to those packages.

As the Regulations apply to all packages and linked travel arrangements regardless of the monetary value of those arrangements this means that, other things equal, a firm offering a low-cost package faces the same regulatory requirements under the Regulations as one offering a higher value one.

Creating a minimum cost threshold would reduce the burden on organisers who could then offer exempted combinations to travellers at lower cost. This reduced burden could also lead organisers to offer new combinations to travellers that previously would not have been available and so create a greater range of more affordable packages for travellers.

The additional protections for travellers of refunds and insolvency protection are partly to reflect that packages can be a high value purchase for travellers. Consumers may deposit large sums of money to pre-book package holidays. These sums are at risk until the holiday is taken and there can be a relatively long period between purchase and the holiday taking place that creates an extended window where things may go wrong.

The need for the additional refund and insolvency protection provisions of the Regulations may be less relevant when the consumer has relatively less to lose through a lower value booking.

Consumers purchasing these lower value packages would no longer benefit from the additional protections provided by the Regulations though would still be covered by other consumer protections, such as in relation to the supply of services (e.g., Part 1, Chapter 4 of the Consumer Rights Act 2015). The aim here is not to disadvantage the less well-off consumer through reform, and while there is a risk that lower priced packages might fall out of scope of the protections, (meaning that cheaper more affordable holidays are impacted more than higher priced ones) we aim to ensure that regulatory burdens are fair and proportionate.

Options

We recognise that there are practical questions in implementing such a threshold and we are interested in views on how these could be addressed, too. These include at what value the threshold should be set and how and when that threshold should be reassessed. The threshold could refer to:

the total price of the package booked,
average cost per head,
deposit size or
some other measure of value.

The point in the purchasing process at which the threshold should be measured and changes in price are accounted for is also to be determined. There could be issues for those packages that are near the threshold and where normal price fluctuations could lead to the same package being above the threshold in one circumstance and below it in another. We believe the dividing point would need to be very clear or it could also add to complexity for travellers and organisers in determining when a package had been formed, thus undermining the goal of reducing burdens.

Questions:

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.

7. If there were to be a minimum threshold, do you think it would be most appropriate for the threshold to be set at:

- a. the price of the package over all travellers; or**
- b. the average cost per person; or**
- c. another measure of value (if so, please describe).**

Please explain.

Regulation of Linked Travel Arrangements

Summary

The Government is interested in views on whether to change the position in the current Regulations relating to Linked Travel Arrangements (LTA), having heard that few businesses use them. We want to understand better why that is, what benefits accrue from the current system and whether greater benefits could be secured by a reformed LTA model.

In addition to providing protections for travellers buying packages, the Regulations provide protection for travellers who purchase a looser arrangement of travel services known as linked travel arrangements. Linked travel arrangements are arrangements that comprise at least two different types of travel service bought for the same trip or holiday but do not meet the definition of a package. Examples of Linked Travel Arrangements and further information on how they are defined can be found in the Government's Guidance for Businesses on the Regulations, [available here](#).

This category was introduced to cover package-like arrangements that merit some additional protections. In addition to consumer protection, the introduction of linked travel arrangements aimed to level the playing field amongst travel providers as they emerged as an alternative businesses model that could compete with package offers but operated outside of the Regulations.

In recognition that Linked Travel Arrangements are a looser set of arrangements than a package, fewer regulatory requirements apply.

Comparative examples of regulatory requirements for Linked Travel Arrangements and Packages

| Regulatory requirement | Linked Travel Arrangement | Package |
|--------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| The organiser is liable for the performance of all services within the booking | x | ✓ |
| The organiser must have insolvency cover | <u>Limited</u> – only to cover payments actually received by the organiser from the consumer, and not those made directly to service suppliers (e.g., hotels).and for repatriation where the organiser is the party responsible for the carriage of passengers | ✓ |
| Organiser is required to provide certain information relating to the booking | ✓ But significantly more limited: principally to confirm that the traveller will not benefit from the | ✓ |

| | | |
|--|-----------------------------------------------------------------------------------------------|--|
| | protections given to packages and to provide details of the insolvency protection | |
|--|-----------------------------------------------------------------------------------------------|--|

Proposal

It has been suggested that the category of linked travel arrangements is confusing both for travellers and organisers, is rarely used and is challenging to enforce. Some feedback has suggested either that linked travel arrangements should be removed as a category or that the definition should be simplified.

Options under consideration

- i) Discontinue the category of linked travel arrangements. This would mean that linked travel arrangements are not subject to the package travel regulatory regime. General consumer protections would still apply, as when an individual service is booked such as a hotel booking.
- ii) Amend the definition of a package so that it includes some or all arrangements that are currently defined as linked travel arrangements. These arrangements would therefore become packages and be subject to the same rules as packages, depending on the feedback we receive. This would significantly strengthen the regulatory requirements placed on Linked Travel Arrangements, subject to any changes the Government makes to the regulatory regime in the future.

The two options above would mean that combinations would only be considered either as packages or non-packages, which should simplify understanding of the requirements for organisers and travellers.

- iii) Retain the linked travel arrangement category but seek to limit the ways in which a linked travel arrangement can be created.

Currently a linked travel arrangement is created when a trader facilitates:

(a) the selection and payment of two or more services for the same trip, under separate contracts with individual providers, upon a single contact with a point of sale (Type A LTAs).

OR

(b) the separate selection and payment of two or more travel services for the same trip through targeted linked booking processes within 24 hours without transferring the traveller's payment details (Type B LTAs).

It seems the industry makes little use of these types of offers and the distinction may be adding unnecessary complexity. The Government could replace these two conditions with single definition that aims to provide clarity about when an LTA will be created.

This could be achieved by removing Type B LTAs and amending the definition of Type A LTAs. Industry representations suggest Type B LTAs are rarely used and lack clarity, particularly in relation to how to track the sale of services from other traders. Narrowing the definition in this way would result in bookings that are currently deemed to be LTA Type B losing protections, but this could be outweighed by improved clarity for consumers and businesses.

Alongside this, the definition of Type A LTAs could be amended to require bookings made to be made as a result of selecting two or more services from a trader’s website (or another website of that trader). within a 24-hour period. This currently only applies to Type B LTAs. This could better suit the online purchasing habits of consumers and addressing existing confusions around establishing a single visit to a point of sale.

We could go further to bring clarity to how an LTA is defined, although this would need to be balanced against narrowing the scope of LTAs and thus reducing the number of bookings which enjoy the protections of the Regulations. For example, we could require the trader to have offered the further service as an add-on. This might clarify the circumstances in which a trader has facilitated the further booking. The definition could also require the travel services to have been booked with the same trader, albeit through separate contracts, as opposed to potentially being created with linked businesses.

Table showing how a Linked Travel Arrangement may be created

| Not a package or Linked Travel Arrangement (and not in scope of the Regulations) | Linked Travel Arrangement | Package |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| Dawn books a hotel in Paris via Company A’s website and concludes the contract. Dawn clicks on an advert on Company A’s website for Company B. Dawn books car hire for the same trip to Paris with Company B. | Dawn books a hotel in Paris via Company A’s website and concludes the contract. Company A emails Dawn later that day and offers vehicle hire for the same trip. Within 24 hours, Dawn books this concluding a second contract with company A for the trip to Paris. | Dawn uses Company A’s website to book a Paris trip including accommodation and car hire and pays one inclusive price for these services. |

If the Government decides to amend what travel services can make up a package, we would also look to mirror those changes in respect of Linked Travel Arrangements, if they are kept within the regime. For example, if we change how other tourist services form part of a package, we will make the same change for how other tourist services can form part of an LTA.

Questions

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?**

Please explain your answer, outlining potential impacts on businesses and consumers and any evidence that informed your position.

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

Information Requirements for Linked Travel Arrangements

Summary

Subject to the Government's final decision on whether and how to proceed with linked travel arrangements rules, the Government is considering simplifying the information provision requirements.

When a traveller books a package holiday or linked travel arrangement, the relevant trader must provide the traveller with specific information about the holiday and about the traveller's statutory rights. Traders who facilitate linked travel arrangements are required to give clear information to travellers specifying that what they are buying is not a package and that only the individual service providers are responsible for the individual travel services. This is so consumers are clear about the distinctions between linked travel arrangements and packages and can make an informed choice based on their holiday requirements.

In particular, a linked travel arrangement facilitator must provide information in accordance with regulation 26(7)-(9) and one of Schedules 6-10 depending on the circumstances. Stakeholder feedback indicates that the information requirements are too complicated and hard to understand for organisers and consumers.

Proposal

We are interested in views on whether simplifying the information requirements would make it clearer what information must be communicated to travellers. For example, we could look to prevent there being multiple scenarios that create slightly differing information requirements. Currently, the Schedules to the Regulations set out information requirements in respect of different types of linked travel arrangement. In practice, we understand that these distinctions can be subtle and not always clear. We could explore ways to bring these together to establish one clear set of information requirements that would apply to a linked travel arrangement. We are also seeking views on whether any of the information requirements feel like an unnecessary burden and could be removed.

Irrespective of changes to the information requirements in the Schedules, facilitators will still need to provide clear, comprehensible and prominent information to travellers, making clear that they have not purchased a package and providing details about the levels of insolvency protection that are applicable.

Questions:

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

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

12. What would be the impact on businesses and consumers of simplifying the information provision requirements for linked travel arrangements?

Flexibility over how insolvency protection is provided

Summary

The Government intends to make the provision of insolvency protection more flexible for traders to ensure some level of choice is built into how businesses choose to provide strong insolvency protection. Stakeholders have indicated differing views on which methods of insolvency protection work best. The majority of businesses agree that having multiple routes to comply with the Regulations is preferable.

Part 5 of the Regulations requires package organisers to obtain security that covers, in the event of the organiser's insolvency, the reasonably foreseeable costs of refunding all payments made by the traveller for services not performed and for the traveller's effective and prompt repatriation. More limited requirements are also prescribed in relation to linked travel arrangements.

Proposal

There are three insolvency protection options which organisers can use for non-flight packages: bonding; insurance; and trust accounts.

Currently, if the organiser is providing a package that includes the transport of passengers and relies on the trust form of insolvency protection, it must have insurance in place to cover repatriation, and if necessary, accommodation for the traveller prior to repatriation (regulation 24(2)). In relation to its liability for refunds, an organiser may combine the trust with insurance (regulation 24(3)). In that case, the organiser is only required to hold on trust sufficient funds to reach liabilities which are not covered by its insurance policy. Any such insurance will be additional to the insurance that the organiser is required to put in place to cover repatriation costs if applicable. We are also interested in views as to how these insolvency obligations interact with other card related consumer protection provisions such as S75 of the Consumer Credit Act 1974 and chargeback measures.

Options under consideration

Organisers can only combine the trust form of insolvency protection with insurance and not with bonding. We are proposing that instead of having to obtain insurance to meet the requirement regulation 24(2), an organiser could achieve the same result through limited bonding through an approved body. They could mix either trust and insurance or trust and bonding. In broad terms the rules on trust and bonding will continue to apply to each form of protection.

The organiser must still ensure protection of all monies paid by or on behalf of customers whether through a bond or trust. The organiser will have flexibility to choose the amount of refund liabilities it wishes to protect through a bond. Monies above that amount will have to be held on trust in accordance with regulation 23 (in most cases, until the contract is fully performed).

Questions:

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

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

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

How other tourist services form part of the rules

Summary

One of the four types of travel service that can be combined to form a package or linked travel arrangement are 'other tourist services.' These are services that are not intrinsically part of the transport of passengers, accommodation or motor vehicle hire. Examples include admission to concerts, sports events, excursions or event parks, guided tours, ski passes and rental of sports equipment such as skiing equipment, or spa treatments.

The Government is interested in feedback on these provisions and is seeking views on proposals to bring clarity to the construction of 'other tourist services.'

Proposal

Currently, 'other tourist services' can form part of a package if they are combined with a service from one of the other categories and they make up a 'significant proportion' or are an 'essential feature' of that combination. The qualifications allow for the inclusion of minor services to a combination without the creation of a package.

Stakeholders have indicated that these definitions can cause ambiguity. The relevant EU directive considers a "significant proportion" to be equal or more than 25% of the value of the package. We now have the opportunity to diverge from this approach. Fluctuations in the price of different travel services mean that what amounts to a significant proportion might change, for example as a result of seasonal price rises in part of the package. This could mean that a minor service that would not ordinarily be considered a significant part of the combination could nevertheless lead to a package being formed if the relative prices change.

Options under consideration

The Government is interested in views on the proposal to remove the 'significant proportion' criterion and retain the 'essential feature' criterion. This would address the ambiguity caused by fluctuations in price and instead rely on whether 'other tourist services' was an essential part of the package and is independent of its price relative to the other services. The Government is also considering whether clarity needs to be brought to what constitutes an 'essential feature' and is interested in views on this.

Under the current Regulations, a package may be formed from the offer of a 1-night hotel stay which included a dinner at a local restaurant. If the 'significant proportion' criterion was removed from the regime, this would only constitute a package if the dinner could be established as an essential feature of this stay. This may be where it has been advertised as such, for example where the package advertised was principally for a Michelin star restaurant with overnight stay included. If, however, the dinner could not be considered essential and the hotel booking was the main component of the booking, it may not be considered a package and therefore the trip would not be protected by the Regulations and the hotel would not be expected to accept any liability for the performance of the restaurant.

Questions:

16. Does the inclusion of 'other tourist services' in the Regulations serve an important purpose?

17. Is there sufficient clarity about when an 'other tourist service' will form part of a package?

18. Should the 'significant proportion' criterion be removed from the definition of other tourist services?

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

To which travellers should package travel rules apply

Summary

The Government is interested in views on the kinds of ‘traveller’ to which package travel rules should apply.

In the current Regulations, travellers include travellers booking for business purposes unless a general agreement is in place. General agreements are defined in regulation 3(3) as, “an agreement which is concluded between a trader and another person acting for a trade, business, craft or profession, for the purpose of booking travel arrangements in connection with that trade, business, craft or profession.” Such agreements are common for larger business and those for whom travel is a key part of their working practices.

This definition is wider than the definition of consumers in other consumer protection legislation, particularly the inclusion of some business travellers. For example, in the Consumer Rights Act 2015, a consumer is defined as, “an individual acting for purposes that are wholly or mainly outside that individual’s trade, business, craft or profession.”

Proposal

The Government wishes to focus package travel protections on those that need them most. The inclusion of business travellers may not be appropriate in this context and may result in burdens to travel organiser businesses being greater than necessary. Limiting the definition to exclude individuals travelling for business would align the scope of the Regulations more closely with other consumer legislation but we are not clear to what extent the Regulations are made use of by small business and what benefits they may lose so we are seeking feedback on this aspect.

The Government is also interested in views on other ways in which the definition of traveller could be changed and what the impact of the change would be.

Questions

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

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

Further technical changes

Redress from Third Parties

The Regulations place liability for the performance of the travel services included in the package on the organiser irrespective of whether the travel services are performed by third parties.

Regulation 29 provides organisers with an express right to seek redress from third parties (e.g., the suppliers of component parts of the package) if the organiser is required to pay compensation, make a price reduction, or similar, and the actions or failings of the third party contributed to triggering the compensation payment.

Organisers have indicated that having fulfilled their own obligations to travellers, they can find it difficult to get redress from third parties. Some third parties will refuse to refund the organiser often claiming that they are not required to. The requirement for organisers to provide refunds within 14 days may not align with the time it takes to receive recompense from suppliers.

We are interested in understanding organisers' experiences of seeking recompense from suppliers and the problems they have encountered in practice.

Questions:

22. If you are an organiser of package travel, have you been able to obtain effective redress from third parties?

23. Have you had any particular or recurring problems in obtaining redress? If so, please provide details.

24. What would improve package travel organisers' ability to obtain timely and effective redress from suppliers?

25. What would be the impact of removing Regulation 29 from the Regulations?

Whether rules should allow for extenuating circumstances

COVID-19 brought significant disruption to the travel sector, which affected both businesses and consumers in ways that could not be foreseen when the Regulations were introduced in 2018. We are interested in reflections on the operation of the Regulations during this time and in feedback about whether changes should be made to the regime so that it better caters for any similarly extreme extenuating circumstances in the future.

Making allowances in the Regulations for extreme circumstances could support consumers to understand what they can demand from organisers and encourage realistic expectations whilst also recognising challenging realities for businesses. For example, Regulation 15 sets out requirements in relation to refunds. The organiser must refund all payments without undue delay in any event no later than 14 days after the contract is terminated. This proved very challenging in the context of the pandemic. There may be a case for introducing a bespoke approach and offering flexibility in rules like this for extenuating circumstances.

Questions:

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

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?

28. If so, what factors do you think should be considered as part of a definition of extreme extenuating circumstances?

29. Are there other changes that should be made to the Regulations considering the pandemic and if yes, what are they?

Territorial restrictions on insurance cover

The Government is interested in views on widening the territorial restrictions on insurance cover. Currently the organiser can take out one or more insurance policies which recognises the travellers as the insured persons and therefore pays direct to the travellers in the event of insolvency. This policy or policies must be held with an insurer who is authorised in the UK, Channel Islands, or the Isle of Man.

Relaxing the territorial restriction on where the insurer is authorised could widen the choice available to organisers which in turn could lower costs and make more packages available to travellers.

Questions:

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?

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

Making it easier for the Government to update the information requirements

The Government is considering whether it would be beneficial to modify Schedules 1 to 5 more easily, which set out the information that must be provided both in the package travel contract and before the conclusion of the contract.

Changes could be made where the Secretary of State considers that a modification would be in the interests of travellers or their understanding of the protections they receive under the Regulations.

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?

Questions

How rules should apply to UK-only package holidays

1. What consumer protections are particularly important for those holidaying in the UK and why?
2. Do you think that:
 - a. All domestic-only arrangements should be exempt from the Regulations; or
 - b. Domestic-only arrangements that do not include travel should be exempt from the Regulations; or
 - c. Domestic-only arrangements should continue to be in scope of the Regulations as they are now?

Please provide an explanation for your answer, citing any relevant data where possible.

3. If you offer or have considered offering domestic packages, what impact does the current regulatory regime have on your decisions to put together domestic packages?
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?

Please explain your response, setting out how and to what extent this reform could lead to benefits or detriment to business.

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.

Setting a minimum cost threshold for rules to apply

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.
7. If there were to be a minimum threshold, do you think it would be most appropriate for the threshold to be set at:

- a. the price of the package over all travellers; or
- b. the average cost per person; or
- c. another measure of value (if so, please describe).

Please explain.

Regulation of Linked Travel Arrangements

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?

Please explain your answer, outlining potential impacts on businesses and consumers and any evidence that informed your position.

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

Information Requirements for Linked Travel Arrangements

10. Which information requirements are particularly important? Please explain why you think this.
11. Which information requirements do you think could be removed or reduced whilst still ensuring consumers receive the information they need?
12. What would be the impact on businesses and consumers of simplifying the information provision requirements for linked travel arrangements?

Flexibility over how insolvency protection is provided.

13. To what extent would increased flexibility in insolvency protection help businesses to meet their obligations under the Regulations?
14. Would there be any challenges associated with increased flexibility in insolvency protection, particularly for compliance and enforcement?
15. In what other ways could the cost to package travel businesses of securing insolvency protection be reduced without compromising consumer protections?

How “other tourist services” form part of the rules.

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

17. Is there sufficient clarity about when an 'other tourist service' will form part of a package?

18. Should the 'significant proportion' criterion be removed from the definition of other tourist services?

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

To which travellers should package travel rules apply

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

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

Further Technical Changes

Redress from Third Parties

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



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