

Travel Matters, 27 June 2018: Speech by Richard Moriarty

Good Morning. Can I thank Mark and the ABTA team for inviting me to speak today. As the new Chief Executive at the Civil Aviation Authority I am delighted to be with you having been in the role for just 35 days.

The travel industry is very important to us at the CAA because we know how important people's holidays are to them and as a consumer focused organisation we are keen to support a thriving travel industry that puts its consumers first.

As many of you know, since 1973 we have run the ATOL financial protection scheme, an important feature of the UK package travel market. This is a subject I will come onto shortly.

But before I do, I've been asked to say something about my ambitions for the CAA more broadly. As you know, our work encompasses a very wide range of activities ranging from safety and security, airspace, economic regulation, airline licensing and consumer rights.

At its most basic level I see the core purpose of the CAA – indeed of any regulator – is to protect the public and ensure consumers are fairly treated. It's what parliament and the general public expect from us.

Looking to the future, I would like today to focus on five areas. These are five strategic priority areas for the CAA. Namely: safety, infrastructure, the consumer, technology, and the services we provide our stakeholders.

On safety, I want to ensure that the CAA continues to uphold the highest standards and does not rest of its laurels. There cannot be any room for complacency when it comes to safety.

I'm keen we are truly a risk based regulator, working with industry to demonstrably reduce safety risk across the total aviation system. This means developing a comprehensive risk picture with the organisations we regulate and building our knowledge and data to make sure we target our regulation in the areas where it will make the biggest difference.

On infrastructure, our goal is to support improving the UK's aviation capacity and resilience so it can continue to support your aspirations to grow and the future demand from consumers.

This includes our work on developing a regulatory framework to support an affordable and commercially financeable new runway at Heathrow. This follows the vote in Parliament on Monday on the National Policy Statement giving Heathrow

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outline planning permission. It also includes our work on modernising airspace – the vital infrastructure of the sky.

Our strategic priority in relation to consumers is to raise awareness of their rights and take proportionate action when we have evidence that businesses are letting them down.

- Some of the important initiatives linked to this include: continuing to improve awareness of ATOL;
- extending Alternative Dispute Resolution schemes to help passengers resolve complaints with airlines/ airports;
- and taking enforcement action against individual companies on behalf of groups of customers where it is appropriate to do so.

Our fourth priority is technology. Drones, cyber security, space planes are just a few examples of things we will need to deal with to ensure the regulatory framework is fit for the future.

Our fifth and final strategic priority is improving the services we provide our stakeholders. Many businesses and individuals need to transact with the CAA over permits, licences, certificates, and so forth.

I am keen to make sure we provide an efficient service. Part of this includes moving some of our processes online – as we will do with ATOL renewals this year.

In talking about our priorities for the future and the broader context within which we all work, it would be remiss of me not to mention Brexit.

Quite properly it is a matter for Government to decide its negotiating position and lead the discussions with the European Union.

But as the industry's technical regulator, what would we like to see achieved from our perspective?

We start by recognising that aviation and travel are by definition international businesses. We are one of the leading global aviation players and London is the best-connected city in the world. We want to see an outcome that continues to allow aviation and travel to flourish, which means ensuring there is a liberal and open market for businesses to trade within.

Aviation and travel consumers have benefitted enormously from the choice that has resulted from the liberalisation of the sectors, particularly across Europe. Brexit should not, in our view, be used as an opportunity to restrict competition.

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We also need to be influential beyond our borders in ensuring safety and security of our citizens. The Government and the CAA have been clear that our preference is to remain part of the European Aviation Safety Agency, EASA.

As a responsible regulator, we continue to undertake technical preparatory work for a range of potential outcomes of the EU exit negotiations.

Finally, Brexit should it be used to undermine consumer rights and environmental protections that have been built up over the years following careful negotiation and a balancing of competing interests.

Now let me turn directly to ATOL and our work supporting the travel industry and its consumers. As I said, it is an important role the CAA undertakes.

I am pleased that we continue to see growth in ATOL sales. And the diversity within the travel industry and the unifying focus on the consumer experience should be celebrated.

I appreciate it is a time of much regulatory change. Some of this change is driven by initiatives outside our remit such as changes to the regulations governing fees for card payments. Within our remit the big change this year is of course the changes contained within the new Package Travel Directive, which comes into force from 1 July.

The new package travel regulations pave the way for:

- greater clarity on the definition of a package;
- an ability to trade across the EU;
- clearer obligations on Governments to have adequate insolvency protection for their citizens;
- insolvency protection being based on the place of establishment of the business arranging the package.
- The regulations also introduce a new legal concept of Linked Travel Arrangements, on which I say a bit more in a moment.

Although these legal changes have been a very long time in coming, I appreciate that it has only been very recently that the industry has seen the finer legal detail and you have understandably voiced concerns about the time required for adaptation and implementation.

We have listened and we have responded.

To give businesses more time to adjust we have done a number of things including:

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- adopting initially a light touch approach to licensing changes;
- keeping changes to the ATOL Certificate to the minimum;
- and for the first three months our enforcement activities will be proportionate and take into account the limited time available to prepare.

We understand that some changes, particularly IT changes, can take time to implement so if the work is in hand, has a timetabled date for completion, then we're unlikely to take action straight away in the first three months.

Although we think this three-month grace period is appropriate we will expect every licence holder to have started making plans for compliance as soon as they knew what the new arrangements were.

I mentioned Linked Travel Arrangements. Although we do not see a high volume of these transactions at present, we want to keep a close eye on their development given the possibility of confusion among consumers about what is protected and what is not protected.

It is clear in the regulations that these services are not included within the ATOL regime.

But in any case, whether they are in or out of ATOL is a less interesting question than what they mean for consumers.

The key thing for consumers is that the protections provided are much less than for packages, and that would be true whether they were inside or outside ATOL.

A package under the regulations is a unitary thing – the organiser is responsible for delivering the whole holiday – it's their risk, and if they can't deliver through insolvency then ATOL will step in. But LTAs aren't like that – an LTA is a bundle of separate contracts, with a little bit of insolvency protection sporadically thrown in. If the LTA seller isn't an airline for example and the airline becomes insolvent there's no protection for the consumer.

Does this matter?

It isn't exactly new, because the consumer could have bought their flight and accommodation separately anyway, and would have been in exactly the same situation where the only person to resolve problems is themselves.

The thing that may be different is that in the consumer's mind they may well believe that they bought a unitary holiday from a single seller, and be disappointed if they find that seller walking away from problems that the consumer expected them to resolve.

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We will keep watching the market, assessing how LTAs are working for consumers, and consider appropriate policy responses if necessary.

I mentioned earlier that we are moving ATOL applications and renewals online. I would like to thank those within the industry who have worked with us to get this right and provide valuable feedback. I am pleased that we will be able to roll out the system this year.

Naturally in the spirit of continuous improvement our attention is moving on to the next development to modernise our approach.

We are currently undertaking a feasibility study on whether to introduce an e-ATOL facility.

When we first introduced ATOL Certificates back in 2012, it was part of a set of measures aimed to clarify things for consumers – enabling them to work out whether they were protected and what was protected. We think that they have brought about an improvement in consumers' awareness, and we think it will be useful to take it a stage further.

The basic idea of an e-ATOL facility is that rather than the seller issuing an ATOL Certificate directly, whoever makes the sale will send the booking data to the CAA and the CAA will hold it in a secure database.

Consumers will be able to check their protection online, and be very confident that the CAA does indeed have the right data, and also in the event of a company failure we will have immediate access to almost complete data, which will enable a more efficient repatriation and refund service.

There are advantages for the industry as well. For example, if we can get all the data at the same time the booking is taken, we won't need written agency agreements any more, which will be a useful reduction in regulatory burden. Additionally, it isn't as though the data is new – all we would be asking for is data that is already there to be sent to us.

On a personal level, I've been through one massive repatriation exercise following the sad demise of Monarch Airlines and I can attest that for such operations, our ability to access real-time data about who is where, and their contact details, is an essential asset.

As I said we are conducting a feasibility study. This will determine if there is a credible case for actually developing the system. If we take this forward I would want us to work extensively with industry to produce something that can work for everyone.

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While I am on the subject of consumer protection I'd like to mention another initiative we have started recently. It relates to airlines' contract terms and conditions.

I'd like to start by asking whether you read all the airline contract terms when you book a flight? Or maybe you just tick the box to say that you have read and understood them?

We did some research in 2016 which found that 40% of consumers don't read any of the terms at all and those that did try and read some of the terms found it difficult to do so.

Consumers considered that some terms could cause a particularly unpleasant surprise, such as having to pay to print off a boarding pass, or having a return flight cancelled if they did not take the outbound flight.

We think it is important that consumers are not caught out by these terms. Our review is looking at how prominent these terms are, how transparent they are and any restrictions or charges applied by the airline.

My colleagues will work with the airlines over the summer and we will publish a report in the autumn, which will include how we assess each of the airlines.

While on the subject of airlines, I should mention the independent Airline Insolvency Review being led by Peter Bucks. This was started by the Government following the collapse of Monarch Airlines.

Although our delivery of the Monarch repatriation exercise was an operational success, it really highlighted the troubling policy question of the differing protection available if you buy a package holiday compared with if you buy an airline seat in isolation.

I know the travel industry feels very keenly that this is unfair if the Government steps in to protect the non ATOL consumers.

The Government has rightly recognised that this is an unsatisfactory state of affairs and the purpose of the review is to advise on how airline insolvency can be better managed.

But it's wider than that, because the scope also extends to travel companies, and how the insolvency protection is to be provided. In effect, it picks up the reins of the Government's review programme started in 2013.

It is early days yet – they have only recently published their Call for Evidence – but it has the potential to lead to very far reaching change in how insolvency protection is provided for travel in the UK – so I would urge you to engage with it.

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Let me not end on the negative note of the insolvency regime – notwithstanding how important that is.

Let me end instead by paying tribute to the industry. Because yours is an industry that has adapted, grown, and continued to delight consumers despite some external challenges over the years.

I have no doubt that you will continue to do so. And as you do, I personally, and the CAA, are keen to work with you in an open and constructive way in your pursuit of putting the consumer first.

Thank you for your time today.

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