
Air Travel Insolvency Protection Advisory Committee

ATIPAC Annual Report

March 2008



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Enquiries regarding the content of this publication should be addressed to:

ATIPAC
CAA House
45-59 Kingsway
London WC2B 6TE

E-mail: contact@atipac.org.uk

Further information about ATIPAC is available at www.atipac.org.uk.

Designed by CAA's Consumer Protection Group on behalf of ATIPAC.

Introduction

Dear Ms Kelly

I have pleasure in enclosing the eighth report of the Air Travel Insolvency Protection Advisory Committee (ATIPAC) for the year ending 31 March 2008.

The Committee congratulates the Government on its decision to implement the necessary legislation to allow the CAA to introduce the ATOL Protection Contribution (APC). The Committee has been calling for this reform since its inception in 2000. The £1 per passenger APC replaces bonding for most ATOL holders and simplifies the regulatory process. The Committee was also pleased with the way the CAA worked with the travel industry to ensure the introduction of the APC was a success.

However the Committee still has significant concerns over the lack of financial protection for some air travellers. The protection available to those booking direct with a scheduled airline is incomplete and many travellers are unaware that they are not protected. This was evident in the recent failure of Silverjet. Where passengers are unprotected they can incur significant financial loss. Given the current uncertainty within the aviation industry about the sustainability of many carriers in the face of rising fuel prices and slackening demand, the Committee is profoundly worried that this situation is being allowed to continue.



John Cox OBE
ATIPAC Chairman

Introduction of APC

On 1 April 2008 the CAA successfully introduced the ATOL Protection Contribution (APC). The move to a £1 per passenger contribution paid by the licence holder has simplified the ATOL system and for the majority of licence holders has eliminated the need for a bond. The Committee strongly welcomes the introduction of the APC and the simplification it brings to ATOL holders.

Bonding is no longer the main form of financial protection for passengers taking package holidays involving air travel. Under the new arrangements each licence holder pays £1 for every passenger booked to travel. The £1 is paid directly into the Air Travel Trust Fund (ATTF). In the event of a tour operator failure the ATTF will be used to meet refund and repatriation costs. The APC will be used to replenish the, currently overdrawn, ATTF until it reaches a sustainable level.

The change in funding for financial protection received broad support from industry and the CAA consulted with them throughout the process. Licence holders were kept well informed of the requirements prior to 1 April.

The CAA has put several layers of protection in place to prevent the ATTF being depleted during the first five years. The CAA has arranged a credit facility for a 5 year term. The facility makes £60 million available in the first year and then £50 million

in each of the following four years. There is also a £300 million insurance policy designed to cover the cost of larger tour operator failures where the aggregate losses to the ATTF exceed £50 million in any year. The CAA has also said that new ATOL holders will, in most cases, be required to provide a bond, as will some existing licence holders in exceptional circumstances, where the CAA considers it requires additional financial comfort to grant a licence. The Committee is reassured by the work the CAA has done to mitigate the risks to the ATTF while it grows to a sustainable level.

The Committee has also taken an interest in the on going negotiations between the CAA and the Association for Payment Clearing Services (APACS) over the protection of holidays purchased with a credit card, in the event of a failure under the APC arrangements. The CAA has kept the Committee informed as the negotiations progressed and the new agreements will mirror the previous agreements that existed between the CAA and the credit card companies where bonding provided the first line of protection.

The Committee congratulates the CAA on its work to introduce the APC and is pleased that this should move the ATTF from being overdrawn to being a healthy and sustainable protection fund.

Travel Industry in 2007

Overseas Travel and Tourism statistics* show that in the year ending December 2007 visits abroad by UK residents rose only 0.7% from 69.5 to 70 million. There were small increases in the numbers travelling to Europe and North America, but the most significant increase was in the numbers flying to the rest of the world, up 2.9%. Of these visits approximately 37 million were holiday trips taken by air.

The numbers making leisure trips by air continues to rise, up 246,000 from the previous year, but the number of holidays sold with ATOL protection remains fairly constant, which means that ATOL protected holidays continue to decline as a proportion of holidays taken.

Summer 2007 was relatively good for the industry. Operators had judged the market well and had good booking levels throughout the summer months. The poor weather and absence of any major international sporting events helped to maintain a healthy summer for tour operators.

The consolidation in 2007 of the top 4 operators (Thomas Cook and MyTravel merged as did TUI and First Choice) led the two market leaders to reassess excess capacity issues.

Competition from no frills airlines into traditional holiday destinations continues to be a challenge for the industry. The no frills airlines are now flying to many short haul and some medium haul holiday destinations such as North Africa and Turkey. Combined with a growing number of websites allowing passengers to self-package holidays, the industry has had to respond to this increased competition.

* Overseas Travel & Tourism (MQ6), Office of National Statistics, Crown copyright 2008.

Number of visits abroad
70 million

Number of air holidays abroad
37 million

Increase in leisure air travel
246,000

Market Outlook for 2008

The early part of 2008 proved to be a successful booking period for tour operators. They achieved good booking levels and the split school holidays over Easter helped to spread bookings over a greater number of weeks. Since then there have been concerns that the rest of 2008 may prove to be more difficult. However, up to the end of March, booking levels have remained good and some operators are continuing to expect a positive year's trading.

There are a number of factors that will make 2008 challenging, most notably, the rapidly increasing cost of fuel that will affect both flights and cruises. Several airlines have already made fuel surcharges in 2008, which has consequently put pressure on some tour operators to increase their prices. The weakness of Sterling against the Euro will also add to the cost of holidays in the eurozone, both for operators and for travellers, and this may exacerbate the ongoing trend for booking holidays outside the eurozone. The continued difficulty experienced by passengers at airports - long queues, time consuming security procedures and

confusion over which items are permitted on board an aircraft, all of which receives wide media coverage - may lead to some holiday-makers choosing to avoid air travel. This may affect booking levels. There has also been a concern that the credit crunch and the pressure it has put on households' disposable income may lead to a reduction in the number of holidays taken. However there has been little evidence to support this view so far. It may be that these pressures reveal themselves in 2009. In 2008 bookings remain solid and tour operators remain confident.

The cruise market has continued to perform well, with strong demand and continued growth. Many of the Mediterranean resorts also show good booking levels, which may be related to the reduction in the number of seats available to these destinations. The top two operators, Thomas Cook and TUI, both cut capacity for 2008 and this better reflects the current market place. Consequently the two largest companies should not have to discount heavily to fill seats.

A number of airline failures have taken place in the early part of 2008, demonstrating again that the travel industry remains a difficult arena to operate in successfully. All three new business class only airlines, Maxjet, Eos and the British carrier Silverjet have failed since December 2007, as has the Hong Kong based low fare airline Oasis.

There are a number of other factors to consider when looking at 2008: the continuing – and increasing - competition from no frills airlines in traditional charter markets, the number of self-packaging holiday websites and the Open Skies Agreement between the European Union and the USA. This agreement took effect in April 2008 and lifted restrictions on the number of airlines and flights that can operate between Europe and the USA. The most significant aspect of the Open Skies Agreement for the UK is the lifting of restrictions on flights between Heathrow and US destinations. Consequently, a number of airlines have already introduced flights, resulting in the potential addition of 7,000 seats a day on offer between Heathrow and US destinations. The effect of this expanded capacity remains to be seen and its effect on tour operators is not clear.

Review of Package Travel Directive

The European Commission issued a Working Document in July 2007, seeking stakeholder views on whether there was a need to reform the Package Travel Directive. The responses demonstrated there was widespread concern that the Directive had not kept pace with changes in the market and that the Commission should review the legislation.

One of the key areas of concern is distinguishing which travel arrangements should be considered as packages. This concern is also related to definitions of common travel industry phrases such as, 'pre-arranged', 'inclusive price' and 'other tourist services'. These phrases are seen as vague and can lead to confusion as to whether a package is being sold. The Directive was originally drafted when holidays were generally advertised in brochures and there was no specific mention of internet sales. It has not therefore kept pace with the growth of the internet and the way many sales are now made.

A further area of concern is the exemption for package holidays lasting less than 24 hours, which do not include overnight accommodation. Many respondents to the consultation felt it was an arbitrary distinction.

Business travel also received attention in the responses to the consultation. Some felt that no distinction should be made between business and leisure consumers. Others thought that the purpose of the legislation should be to protect leisure consumers, in line with other consumer protection legislation, and that business and leisure travellers have diverging protection needs.

The Commission has indicated that it will carry out a review of the Directive, but it is unlikely that this will be launched until 2009.

Package Travel Directive
Council Directive
90/314/EEC 1990

Definition of a Package

BERR Definition of a Package
Published Jan 2008
URN 08/570

ATIPAC had been anticipating the publication of the Department for Business, Enterprise and Regulatory Reform (BERR) guidance for some time and welcomed its appearance in January 2008. The guidance was required following the Court of Appeal's decision on the earlier package guidance issued by the CAA. The decision by the Courts to reject the CAA's guidance, following ABTA's challenge, left the industry without a satisfactory definition of a package. BERR agreed to produce new guidance for the industry and since publication the guidance has received broad travel industry support.

The CAA has indicated, following the publication of the BERR guidance, that it plans to continue its role of educating industry and ensuring the regulations are fully understood by all. The CAA has stated publicly that it will continue to engage in constructive discussion with those selling air package holidays and will remind them of their obligations under the regulations. The CAA has also said it will investigate companies that do not have an ATOL, but may appear to require one under the regulations. The Committee welcomes the on-going work of the CAA in this important area.

Airline Insolvency

The Committee continues to be concerned at the lack of financial protection available for passengers in the event of a failure of a scheduled airline. The Committee also regrets that both airline representatives on the Committee resigned in October 2007, principally because of the majority of Committee members' interest in extending protection to scheduled airlines.

At present the only specific insolvency protection available to airline passengers is scheduled airline failure insurance (SAFI), although under consumer credit legislation passengers who have paid for flights with a credit card may be entitled to a refund. SAFI mostly forms part of a general travel insurance policy, but can sometimes be bought separately. The insurance will only reimburse those who have paid for flights or incurred additional costs following the failure of an airline. It is up to each passenger to make replacement travel arrangements. SAFI also contains a number of exemptions: US airlines that have sought protection under Chapter 11 bankruptcy laws are excluded and cover for other airlines can be withdrawn at short notice.

The Committee recently carried out a detailed review of airlines in the UK offering SAFI on their websites. The results of this research revealed that SAFI is

rarely available to purchase as a standalone product. The websites of 11 major UK airlines and 8 no frills airlines were checked. SAFI was sold on only 4 of these websites and then only as part of a general travel insurance policy.

The Financial Services Authority (FSA) will be introducing new rules on the selling of connected travel insurance in 2009. The rules will essentially tighten the regulations on who can sell insurance such as SAFI and this may further reduce its availability.

The Committee notes that when an airline fails not only do passengers lose the money they have paid for their flight but they also incur the additional cost of purchasing replacement flights. The Committee also draws attention to the lack of information about financial protection provided to passengers by airlines. At best financial protection and information about it is negligible where it should be universal. For passengers and industry there is confusion where there should be clarity. The Committee finds this situation entirely unsatisfactory and has written to the Department for Transport (DfT) with the results of the research carried out on the availability of SAFI and to highlight their concerns that the airlines are not providing suitable protection and advice for their passengers.

At present there is a two-tier protection system. Those passengers travelling on ATOL protected holidays will suffer no financial loss if their operator fails, but those who have booked seats direct with an airline could have no choice but to pay for replacement tickets if their airline fails, or lose the value of other pre-paid elements of their holiday.

The Committee feels that the failure of the British airline Silverjet, although it occurred outside the reporting period of this annual report, deserves attention. The failure highlighted the difference in the protection available to airline passengers. Some passengers who had booked flights as part of a package were protected by ATOL, others who had booked a flight only were not. When Silverjet failed on 30 May 2008 approximately 7,000 passengers from the UK and 2,500 from overseas were affected. Of the UK passengers 3,000 were protected either by Silverjet's ATOL or by booking through another ATOL holder. This left 4,000 passengers either having to pay their own repatriation costs or for those yet to travel, pay for alternative flights. The discrepancy in the financial protection available to airline passengers was clearly demonstrated by the failure of Silverjet.

Travel Industry Fraud

Amount defrauded
£6 million

Estimated number
of people defrauded
20,000

Maximum sentence given
7 years

The recent high profile convictions of several travel company directors who had set out to defraud the public highlighted the issue of fraud in the travel industry. A group of four individuals had defrauded an estimated 20,000 people of a total of £6 million, of which only £400,000 has so far been recovered. They set up 26 companies including, Ciao Travel Ltd, Onshine Ltd, Grayrise Associates Ltd, Orange Sun Ltd and Sun Orient Ltd, to carry out the fraud. The four directors were jailed in April 2008 for between three and a half and seven years. The detailed police investigation into the huge scale of the fraud and the case generated significant media interest. The Committee is pleased that the police proceeded with this important case and that those responsible were subsequently prosecuted and jailed. The Committee also notes the significant amount of work undertaken by the Association of British Travel Agents (ABTA) to aid the police investigation and help secure the convictions of the four persons responsible for the fraud.

The Committee will continue to promote ATOL and highlight its importance to consumers. The easily recognised logo gives consumers the confidence that they are booking with a licensed company and their money is safe. The role of ATOL is vital in combating fraud in the travel industry.

The Committee believes it is essential that fraud continues to be investigated, consumers are reminded of the importance of booking with licensed companies and that the ATOL logo is a sign of quality they can trust.

ATOL Tour Operator Failures

In the year to 31 March 2008 there have been 25 failures, two fewer than the previous year. Although the number of failures is similar to last year, the cost has been significantly less. Last year the Air Travel Trust Fund (ATTF) paid out £3.3 million in refund and repatriation costs. This year it paid out £374,000, repatriating 1,650 passengers and refunding 20,771.

The largest failure was Travelscope Holidays Ltd which failed in December 2007, just before Christmas. Although only three passengers required repatriation, a further 16,000 had to be refunded. The total cost was £3.2 million and the bond provided by Travelscope was sufficient to cover this.

Of the 25 failures that took place over the year, 12 resulted in a call on the ATTF. The most significant call on the Trust was £207,000 required by the failure of Going4 Hajj & Umrah Tours Ltd. The other calls on the ATTF were all considerably less.

Details of all the failures can be found at Appendix 1.

Passengers repatriated
by ATOL from resort

1,650

Number of ATOL claimants
who received a refund

20,771

Conclusion

The introduction of the APC has been beneficial to ATOL holders, it has simplified the financial protection process and helped to reduce costs. It has also meant that the Air Travel Trust Fund, used to pay refund and repatriation costs in the event of an ATOL holder failure, can be restored to a healthy balance from its currently overdrawn position. The Committee congratulates the CAA for implementing this important reform.

In the current economic climate, which has already claimed the three new business class carriers operating from UK airports, airlines are facing increasingly challenging conditions. The Committee remains concerned that airline passengers are not sufficiently aware of their financial exposure when booking direct with an airline, that airlines are not informing passengers about financial protection and that the availability of scheduled airline

failure insurance is limited and subject to the withdrawal of cover at short notice. This combination of factors leaves passengers exposed to significant potential losses and even the risk of being stranded abroad. All of which is avoided by those passengers protected by ATOL. The failure of Silverjet provided evidence of the differing financial protection to which airline passengers may find themselves subjected.

The Committee believes there is a need for a campaign for greater awareness of financial protection for air travellers, including reminding them of the benefits of ATOL and the reassurance it brings when booking a package holiday involving air travel. The Committee also reiterates its call for airlines to be brought in to a financial protection scheme for the benefit of all air passengers.

Details of Bonds Called April 07 to March 08

LICENCE HOLDER	Bond Called	No. Passengers	ATOL Revenue £'000	Bond Amount £'000
MAS Travel Services Ltd	16 Apr 07	180	50	10
Portugala Holidays Ltd	09 May 07	445	226	25
First Solution Money Transfer Ltd	10 Jul 07	231	95	10
Travel Adventures Ltd	31 Jul 07	489	140	27
Ajmair Travel Ltd	02 Aug 07	255	110	13
Davies G T	10 Aug 07	40	69	10
Sky Value Ltd	13 Aug 07	255	72	10
Concept Holidays Ltd	16 Aug 07	490	345	52
Travel Linx Ltd	20 Aug 07	562	191	20
Fly Brits Ltd	07 Sep 07	12,600	2,500	758
Vision Holiday Ltd	07 Sep 07	Joint Bond	-	-
Perfect Choice Holidays Ltd	14 Sep 07	6,645	2,210	486
Escape Holidays Ltd	21 Sep 07	500	179	68
Flights International (Southend) Ltd	16 Oct 07	185	85	11
Holiday Mediterranean Ltd	17 Oct 07	1,630	770	88
Mauri Travel (UK) Ltd	06 Nov 07	80	125	16
E-4 Events Ltd	26 Nov 07	150	30	10
Oasis Tours Ltd	26 Nov 07	499	175	22
Travelscope Holidays Ltd	21 Dec 07	42,110	30,320	4,800
Going Abroad Travel Ltd	11 Jan 08	488	164	0
Go4 Hajj & Umrah Tours Ltd	22 Jan 08	83	89	22
Multidean Ltd	23 Jan 08	331	150	22
Nickel Enterprises Ltd	30 Jan 08	872	917	92
Leisure Direction Ltd	05 Feb 08	7,500	2,150	315
Colours of Oz Pty Ltd	11 Feb 08	175	618	155
TOTAL: 25 Failed Companies	TOTAL:	76,795	41,779	7,040

1. The administration of the cases may not have been completed. Administration costs which were incurred in paying passengers' refunds have been included in the Cost of Refunds.

2. The figures for total expenditure and any call on the Air Travel Trust include amounts already spent plus estimated further expenditure.

3. Where a call on the Air Travel Trust is indicated, this is the difference between expected total

expenditure and available bond monies. The call on the Air Travel Trust may include the expenditure of accrued interest.

4. The totals may not agree to the sum of the figures shown in the table due to rounding differences.

No. Repatriated	Repat' Cost	No. Refunded	Cost of Refunds	Expenditure	ATT Call
	£'000		£'000	£'000	£'000
0	0	10	5	5	0
0	0	86	22	22	0
0	0	12	2	2	0
0	0	2	1	1	0
0	0	39	19	19	6
6	12	0	0	12	1
0	0	3	1	1	0
76	38	30	17	55	4
0	0	57	25	25	6
793	463	385	159	622	0
-	-	-	-	0	0
600	191	1,260	202	393	0
10	3	64	18	21	0
0	0	28	7	7	0
0	0	32	22	22	0
0	0	10	26	26	10
0	0	8	30	30	20
0	0	242	112	112	90
3	10	16,000	3,148	3,158	0
0	0	10	4	4	4
0	0	69	230	230	207
0	0	74	26	26	3
0	0	27	38	38	0
160	10	2,200	314	324	9
2	6	123	163	169	14
1,650	732	20,771	4,589	5,321	374

ATIPAC Constitution & Terms of Reference

Establishment and Role of the Committee

1. The Air Travel Insolvency Protection Advisory Committee ("the Committee") is established by the Secretary of State for Transport to advise on the financial protection arrangements for air travellers and customers of air travel organisers.

Composition of the Committee

2. Members of the Committee shall be drawn from:

Association of British Travel Agents	Two Members
Federation of Tour Operators	One Member
Association of Independent Tour Operators	One Member
Association of Airline Consolidators	One Member
Eventia	One Member
Travel Trust Association	One Member
Air Transport Users Council	One Member
Trading Standards	One Member
Internet Community	One Member
European Low Fares Airlines Association	One Member
BARUK	One Member
Independent representatives not associated with any organisation represented on the Committee	Three or four Members, (one of whom is Chairman)
Other representatives of consumer interests	One or two members
Civil Aviation Authority (CAA)	Two Members

Appointments to the Committee

3. Members shall be appointed by the Chairman of the CAA, for periods specified at the time of appointment; Membership periods should normally be periods of 4 years. Members may resign at any time. The CAA Chairman will consult the Chairman of the Committee before appointing Members other than from trade associations and the CAA.
4. Each represented body should nominate to the CAA two alternates, who may attend any meeting in the absence of that body's appointed Member(s).
5. If the Chairman of the CAA is satisfied that a member has been absent from meetings of the Committee for more than three consecutive meetings or is satisfied that a member is otherwise unable or unfit to discharge the functions of a member of the Committee he may declare the membership vacant.

Meetings of the Committee

6. The Committee shall determine its own procedures for and frequency of meetings, including any requirement for a quorum.

Duties of Committee

7. The Committee shall keep under review and from time to time advise the CAA, the Trustees of the Air Travel Trust and the Secretary of State for Transport on the arrangements for the financial protection of air travellers and customers of air travel organisers.
8. In particular it shall:
 - advise the CAA and the Secretary of State as appropriate on any changes to the structure of protection that it concludes are necessary or desirable;
 - advise the CAA and the Trustees on the use of their discretion when making payments from bonds and from the Trust;
 - advise on bonding arrangements and bond levels;
 - advise on agreements between the Trustees, the CAA and third parties such as credit card companies;
 - advise the Secretary of State on the need for a reimposition of a levy on the holders of Air Travel Organisers' Licences in order to replenish the Trust Fund, and advise the CAA and the Secretary of State (as appropriate) on the implementation of such a levy.
9. The Committee shall submit to the Secretary of State an Annual Report on its activities in each year ended 31 March within four months of the end of that year. The Committee shall draw to the Secretary of State's attention at any time matters of concern on which, in its view, action is necessary.

Administrative Arrangements

10. Reasonable out of pocket expenses directly incurred by Members of the Committee in attending meetings shall be reimbursed by the CAA.
11. The CAA shall provide administrative support to the Committee.

The Department of the Environment, Transport and the Regions
April 2000

Amended by the Department for Transport
July 2006

Role & Membership of the Committee

The Air Travel Insolvency Protection Advisory Committee was established by the Secretary of State for Transport in 2000 to provide advice to the Civil Aviation Authority (CAA), the Trustees of the Air Travel Trust and the Secretary of State for Transport on the financial protection arrangements for air travellers and customers of air travel organisers. Its terms of reference are at Appendix 2 of this Report.

The Committee includes representatives from key trade associations, consumer representatives, independent members and members appointed by the CAA.

The Committee held four meetings during the year. Three were held at the Civil Aviation Authority in London. The September meeting was held in Edinburgh to coincide with the 'Seventh International Travel and Tourism Policy, Law and Management Conference'. The Conference is organised by Prof David Grant and the Committee are grateful for his invitation to host ATIPAC at the conference.

John Cox	Chairman of ATIPAC since its formation in April 2000. He is also the industry representative to the Air Travel Trust and a past Chairman of the Air Transport Users Council.
Roger Mountford	Non-executive member of the CAA and also Chairman and a Trustee of the Air Travel Trust.
Richard Jackson	Representative of the CAA, Group Director of the Consumer Protection Group and CAA Board Member. He is also a Trustee of the Air Travel Trust.
Noel Josephides	Managing Director of Sunvil Holidays Ltd. He represents the Association of Independent Tour Operators (AiTO), of which he is Council member responsible for Industry issues. He is also a board member of ABTA.

Andy Cooper	Director General of the Federation of Tour Operators (FTO)
Mike Monk	Head of Financial Services for the Association of British Travel Agents
Roger Allard	Chairman of All Leisure Group PLC and the ABTA trade representative on the committee.
Lindsay Ingram	General Manager of Newmont Travel Limited. He represents the Association of ATOL Companies (AAC).
Todd Carpenter	Chief Executive of the Travel Trust Association (TTA).
Iain Lindsay	Senior Vice President and Deputy General Counsel of Sabre Holdings and lastminute.com. He represents the on-line travel industry.
Prof. David Grant	Director of the Travel Law Centre, University of Northumbria and Editor of the Travel Law Journal. He is an independent member.
Simon Evans	Chief Executive of Air Transport Users Council.
Bruce Treloar	Trading Standards Institute Lead Officer for the Holiday & Travel Industry. He represents consumer interests.
Roger Bray	Independent freelance journalist with a consumer focus. He is an independent member.
Uday Dholakia	Senior Partner at Global Consulting Ltd. He is an independent member.
Roger Harvey	Representative of Eventia. Resigned from ATIPAC in December 2007.
Kyrie James	Legal Member of the Parole Board for England and Wales. She was an independent member. Resigned from ATIPAC in January 2008.
Mike Carrivick	Chief Executive of Board of Airline Representatives UK (BAR UK). Resigned from ATIPAC in October 2007.
John Hanlon	Secretary General of European Low Fares Airlines Association (ELFAA). Resigned from ATIPAC in October 2007.

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Enquiries regarding the content of this publication should be addressed to:

ATIPAC
CAA House
45-59 Kingsway
London WC2B 6TE

E-mail: contact@atipac.org.uk

Further information about ATIPAC is available at www.atipac.org.uk.

Designed by CAA's Consumer Protection Group on behalf of ATIPAC.