

In late April 2017, the Commission for Aviation Regulation started work on two related projects. We are:

1. Examining the existing bonding and Travellers' Protection Fund arrangements and assessing its continued effectiveness in terms of providing protection to the travelling public. As part of this exercise, we will consider the strengths and weaknesses of various options and the extent to which these options can be accommodated under the existing licensing and bonding legislation.
2. Commencing an overview of the requirements of the Package Travel Directive as they relate to Ireland and a detailed assessment of the requirements of the Directive as they relate to the Commission for Aviation Regulation's functions and duties (in the areas of licensing and bonding). This work will form the basis of advice from the Commission to the Department of Transport, Tourism and Sport.

More details about both projects can be found below. While these two areas of work are linked they are dealing with different aspects. The first looks at the **existing** arrangements and the second looks at any changes that may be required to comply with **future** legal requirements.

We plan to work closely with tour operators, travel agents and other stakeholders to draw on their expertise and knowledge when preparing options and recommendations. We plan to take a similar approach in both projects. We will develop proposals in consultation with the industry, examine the relative merits of the different options and then publish papers for wider circulation and comment. The work will be carried out in the coming months and we aim to have finalised positions towards the end of the year.

All interested parties will have the opportunity to engage in the consultations on these projects. In addition, to ensure the views of the industry are well represented the Commission intends to contact a number of representative bodies directly for input. Over the coming months, the Commission will provide updates on the progress of the projects and the timings of general consultations.

Travel Trade Customer Protection Projects, 19th May 2017

Work Stream 1: Review of Current Protection Scheme

Background

1. The Commission is responsible for licensing travel agents and tour operators and also administers a scheme of protection for consumers of these companies. In 2015, we licenced 273 companies which had a projected licensable turnover of €1.2bn.
2. All tour operators and travel agents trading in the State are required by law to be licensed and bonded to buy or sell overseas travel originating in the State to destinations outside the State or Northern Ireland unless they qualify for exemption being a retailer or organiser established in another Member State who has provided the Commission with sufficient evidence of security for the protection of consumers. All licensees are required to provide a bond. The current bond required from travel agents and tour operators is a percentage of projected annual licensable turnover, 4 and 10% respectively.
3. The aim of the bonding scheme is to provide protection to consumers in the event of a travel agent or tour operator not being able to fulfil their obligations under the contract. In these scenarios, the consumer can claim against the bond held with the Commission for refund, or if abroad at the time, for expenses and repatriation. Where the bond is insufficient the Commission can draw down from the Travellers' Protection Fund.
4. These arrangements have been in place since the early 1980s and the Commission now wishes to review both the bonding arrangements currently in place and the operation of the Travellers' Protection Fund to ensure they continue to efficiently meet the objectives of the scheme and provide the travelling public with an appropriate level of protection.
5. The existing legislation allows for a levy on tour operators to replenish the Travellers' Protection Fund. The fund was build up in the 1980s at a time when the tour operator side of the industry was much larger and when travel agents primarily sold the products of tour operators. While the levy only covers tour operators the Travellers' Protection Fund covers both travel agents and tour operators.
6. We want to examine this arrangement and its continued effectiveness in terms of providing protection to the travelling public. As part of this exercise, we will consider the strengths and weakness of various options and the extent to which these options can be accommodated under the existing licensing and bonding legislative framework.

Project Description

7. The project should answer these key questions:
 - Does the current scheme (bonds plus Travellers' Protection Fund) continue to meet the objective of ensuring consumers are fully protected in the event of future collapses?
 - If yes, does the current scheme represent the most efficient way of achieving this objective? If no, what feasible options for a scheme can be considered?
8. In arriving at the answers to these questions we need to consider the following.
 - Options which include, but are not limited to, bonds, bonds combined with the Travellers' Protection Fund, or just a Travellers' Protection Fund type arrangement.

Travel Trade Customer Protection Projects, 19th May 2017

- When examining options for the Travellers' Protection Fund, the optimal level of the fund and what levy would need to be put in place to achieve this under two scenarios:
 - i. If there is no change to existing legislation and therefore only tour operators could be levied – in this case the feasibility of the levy must also be considered.
 - ii. If legislation is to be changed to include travel agents.
 - For bonds:
 - i. What was the original logic of the 4% and 10% and what has changed since?
 - ii. What is the appropriate level for bonds (with and without the Travellers' Protection Fund)?
 - iii. Should a bond be risk adjusted to suit the business in question (and if so how)?
 - iv. Should a bond be varied throughout the year responding to the pattern of turnover of an individual firm (and if so how)?
 - For all recommendations:
 - i. Have regard to the nature of the collapses which have occurred to date and the resulting draw on bonds and the Travellers' Protection Fund.
 - ii. Consider the different business models in the industry and understand that one solution may not suit all.
 - iii. Consider International experience of similar schemes.
 - iv. Examine the impact of any recommendations on how the Commission currently licenses and monitors licence holders.
 - v. Conduct an impact assessment to assess feasibility.
9. The project should consider any other aspects of the consumer protection measures which are deemed appropriate.

Project Process and Outputs

10. The project will include extensive stakeholder engagement. To inform the report, early in the process, we will conduct interviews with a selection of key stakeholders. These would include associations of travel agents or tour operators, a representative sample of individual travel agents and tour operators, potential large entrants into the market (for example airlines) and providers of bonds (banks and insurance companies).
11. We will produce a paper for a public consultation, review responses and finalise our paper.

Travel Trade Customer Protection Projects, 19th May 2017

Work Stream 2: Impact of Package Travel Directive (2015/2302/EU)

Background

1. All tour operators and travel agents trading in the State are required by law to be licensed and bonded to buy or sell overseas travel originating in the State to destinations outside the State or Northern Ireland unless they qualify for exemption being a retailer or organiser established in another Member State who has provided the Commission with sufficient evidence of security for the protection of consumers. All licensees are required to provide a bond. The current bond required from travel agents and tour operators is a percentage of projected annual licensable turnover, 4% and 10% respectively.
2. These arrangements have been in place since the early 1980s. In 2015, a Directive on package travel and linked travel arrangements was finalised and applies in Ireland from 1 July 2018.
3. Having regard to its role as economic regulator in the sector, the Commission seeks engage with the industry on matters arising from the introduction of the new Directive. This work will form the basis of advice from the Commission to the Department of Transport, Tourism and Sport.

Project Process and Outputs

4. We will identify, in consultation with travel sector stakeholders, a set of arrangements that can be applied that meet the relevant requirements of the Directive and highlight those options that can be accommodated under existing licensing and bonding legislative framework.
5. We will identify the views of the travel trade sector (and options) about future arrangements having regard to the definitions of linked travel arrangements, package and travel services in the Directive and the provisions in relation to compensation, refund and repatriation. We will also look at administrative arrangements where there is a non-performance of agreed travel services and insolvency or cessation of trading of travel service providers.
6. Early in the process, interviews will be conducted with a selection of key stakeholders. These would include associations of travel agents or tour operators, a representative sample of individual travel agents and tour operators, potential large entrants into the market (for example airlines) and providers of bonds (banks and insurance companies).
7. A report will be produced that includes a high level overview of the requirements of the Directive as they relate to Ireland and relevant statutory requirements, and detailed assessment of the requirements of the Directive as they relate to the Commission for Aviation Regulation's functions and duties.
8. There will be a consultation paper detailing an assessment of the aspects of the current arrangement that needs to be amended to comply with the Directive and options for consideration (including impact assessments of these options).
9. We will consider the all views presented to us and then update the report as required (providing summaries of the travel industry views). This work will form the basis of advice from the Commission to the Department of Transport, Tourism and Sport.