



Campaign Supporters Its Right to Refund

Dear all,

Introduction

I need to provide an update to several parties concurrently so hope you will forgive an open letter on this occasion.

Situation overview

Coronavirus is having a major impact on the UK travel industry. I am going to limit the scope of my commentary to ATOL protected tour operators (“Tour Operators”), their customers, the industry regulator (the Civil Aviation Authority, “CAA”) and ABTA the leading trade body, which is a very large sector in itself.

Media attention has focussed on the impact on other businesses. Pubs are closed for example. But they do not have to refund last year’s sales! The challenge for Tour Operators is of an unprecedented scale. Zero sales, mass refunds are mandatory under the Package Travel Regulations (“PTRs”), Regulation 14, within 14 days of cancellation. That is the law, pure and simple.

Some Tour Operators are working to that including my own: VIVID Travel. It has been suggested online, and in public, this is somehow painless for me to effect as VIVID Travel is “so small my Nephew could pay the refunds from his piggy bank”. To clarify, in a normal year, let us hope 2021, we would be targeting sales of circa £10m. So yes, we are small but not tiny. VIVID Travel has processed refunds only after emergency finance was put in place by me. I have three children and only took that decision in conjunction with my wife. I now have a debt to a bank but hope to resolve that without significant financial distress, not least, as I have been fortunate in earlier business ventures including Travel Republic. We are very happy to highlight any other Tour Operators working to the PTRs if you make me aware.

Most Tour Operators cannot comply with the PTRs in the short term. And in fact, are not already.

ABTA, who have no force of law as a trade body not a regulator, a club of sorts, have tried to bring some order to the industry with an updated ABTA Code of Conduct which approves Credit Refunds, redeemable for cash on 31 July 2020.

I am uncomfortable with any party taking the law into their own hands and unsure as to where that takes us. Further, I have concerns that the mechanism ABTA have favoured, introducing a new document has complicated the situation. However, I do not doubt ABTA’s motives are sound and what are we to do when the law is broken, the Government silent, the regulator: CAA, seemingly mute?

I have had a number of discussions with ABTA in recent days and have enormous respect for their Chief Executive, Mark Tanzer. I served as a Director on the ABTA board and Mark is as passionate about the UK travel industry as I am.

I have therefore decided, in these exceptional times during which the difficulties are greatly exacerbated by a regulator seemingly Missing in Action and a mute Government, that ABTA and their Code of Conduct is the that best that we have available. At least that gives us rules and a referee even cognisant that ABTA lack the ability to legally enforce their Code of Conduct on market participants, especially the many non-ABTA Tour Operators.

Campaign Update

Its Right to Refund will therefore support ABTA as the de facto regulator and their position on proposed PTR reform as stated and focus energies on the Tour Operators who are now choosing to act outside of both the PTRs as they stand and as ABTA have proposed they are amended.

This will involve a significant leap of faith that the *Credit Refunds* will be treated as fully ATOL protected by the CAA in the event that a Tour Operator fails, in other words, that customers caught in that scenario with a valid ATOL claim will receive their money. To ensure I am in a position to fight for consumer rights in that position I am pledging today to offer to buy a total of up to £10,000 worth of ATOL claims from consumers who find themselves in circumstances where their Tour Operator has provided a Credit Refunds, the Tour Operator fails, and reimbursement through ATOL protection is refused. Subject to agreement with those individual consumers I will offer buy those claims, for cash and at par, and will then pursue recovery of my losses from the CAA and through the courts if necessary.

It's Right to Refund is as a result now freed to focus limited resources on the ATOL licensed Tour Operators not complying with the PTRs, either as they stand or as ABTA suggest they be amended. These Tour Operators, offering their customers only vouchers which will never redeem to cash, are operating outside of Regulation 14 of the PTRs ("Outlaw Tour Operators").

Outlaw Tour Operators

Attention Outlaw Tour Operators. Your choice to only offer customers vouchers which never redeem to cash reflects badly on your organisation and highlights a lack of empathy for customers, many of whom also face unforeseen financial distress. There is no legal or ethical justification for this. Your customers are not your Bank. Please comply with the legislation either as it stands or as ABTA are lobbying for, regardless as to whether you are ABTA members or not. Your customers will not forgive you for this treatment and your conduct damages all market traders unfairly.

Our trade is built on trust. I recognise you might need to urgently raise finance to comply with the law but given the breathing space the ABTA approach affords you have time to do so. Shareholders may need to return dividends. Your bank may need to put in place additional facilities. That is not the concern of your customers. Your assumption that you can force a

loan on your customers, and collectively, the public is quite simply: wrong, wrong, wrong. We are calling you out on this and reserve all rights.

To date, *Its Right to Refund*, has not identified specific Outlaw Tour Operators but we are under mounting pressure to do so from our campaign supporters, which include your customers. We will be reviewing this approach and the terms of sale of the main Outlaw Tour Operators on Tuesday 12th April, after the Easter weekend.

Customers (other than those of fully PTR compliant Tour Operators)

It is not disputed that you are fully entitled to a cash refund in law and on the times previously stated, and many of you would like us to simply campaign for that to be honoured. I have tried to summarise above why I don't think that is a realistic campaign objective.

In my experience, the real people working within the travel industry are warm hearted and if you need a cash refund urgently due to personal financial distress I would expect that they respond to that, if you state your case in writing to them requesting prioritisation.

The benefit of us accepting the ABTA proposal, almost a "let us pretend" the law is amended even though Government are frustratingly slow to confirm, is it enables us to adopt of set of rules that are defined. As stated above the real law is quite simply broken and not practical for most Tour Operators to comply, despite best endeavours to do so, within these first few weeks of the coronavirus crisis.

Please continue to support us in putting pressure on the Outlaw Tour Operators to behave responsibly and fairly to you, their customers, who should always come first.

Government & the CAA

Please take a decision and speak up so the law is updated and then enforced. You are putting all market participants in an intolerable position and failing in your formal responsibilities to provide good order.

All

We wish you a peaceful Easter.

Best regards,

Kane

Kane Pirie

Campaign Leader

Its Right to Refund

<https://www.change.org/Its-Right-to-Refund>

CC:

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Alok Sharma, Secretary of State for Business, Energy and Industrial