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Articles

# HolidayTravelWatch Clinic™ - Case Study

This case study involves two travel providers, and one hotel. Mr D was given a birthday surprise by his Partner, a long week-end in Rome. His Partner thought she had booked a 'Package Holiday' with Travel Provider A, arranging flights, hotel and transfers. At the time of booking, she was quoted one price, and paid, with her credit card, one price for the holiday. She was provided with one booking and one confirmation invoice. Both Mr D and his Partner set off on what they hoped would be a wonderful holiday in the Eternal City. When they arrived at the hotel, they checked into their room and started to unpack. Within a few minutes, they were told by the hotelier that they could not stay at the hotel, it was full and they had to leave. They protested and produced their tickets and accommodation voucher. The hotelier was unrelenting, there was no room. They then had to contact Travel Provider A, who then arranged accommodation away from the centre of Rome. As a result they lost a whole day from a three day week-end, and missed many of the pre-purchased excursions they were due to take on the first day. When they returned to the UK, they discovered that they could not simply call Travel Provider A, they had to e mail them! Travel Provider A responded that they were not responsible, if they examined the terms and conditions, they were simply acting as agents, it was Travel Provider B's responsibility. Travel Provider B responded that it was not their fault, this was a problem with the hotel, they too were only acting as an 'agent'. The Hotelier responded that it was not his fault, the problem was created by Travel Provider B!

Understandably Mr D and his Partner were both annoyed and confused, how did a 'Package Holiday' become so difficult?

## Suggested Solution:

Mr D and his Partner have joined the ranks of a growing number of holidaymakers who have joined the 'brave new world of travel'! In order to determine the solution, you have to establish whether the company that has sold the holiday to you is an 'agent' or a 'principal'. If they were a 'principal', there is potential liability for any failings in the contract. If they are an 'agent', then their argument will point to the fact that they are acting for a 'principal'. Mr D's case is complicated because it would appear that there were two 'agents' acting for the hotelier. Travel Provider A was the initial contact for Mr D. Travel Provider B also states that they too are acting as an 'agent' for the hotelier. Can they both be right? If you follow their argument within their terms and conditions, then probably yes!

However, Regulation 2 of the Package Travel Regulations (PTR) is still in force! It is clear, the creation of a Package Holiday, either by the supplier or at the consumers request constitutes a Package and attracts the protections of the PTR.

The current view of the Travel Industry is that this is incorrect, we should follow the definition of a 'Package' within R v CAA.

If they are correct, then the decision in a US case Rodriguez v Cardona Travel Bureau (1986) should follow, "Travel Agents should be held to a duty to investigate and ascertain the reliability of suppliers, tour operators and wholesales they recommend".

Mr D is now faced with the difficulty of establishing which position is dominant, the rights under the PTR or the decision in R v CAA. Whatever the difficulties it is clear that one, if not both of the agents, have failed Mr D. We have recommended a close examination of the contract and thereafter a Money Claims Online application, how will the Judges decide this complex issue?

HolidayTravelWatch
10 May 2007

If you have been affected by any of the issues raised in this article, and would like to receive advices, then please contact HolidayTravelWatch without delay.

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