HolidayTravelWatch
PO Box 12768
Birmingham
B28 1AQ
01217478100

January 13, 2007

The (Rt Hon. The) Lord Brennan QC
The House of Lords
London
SW1A 0PW

Dear Lord Brennan:

Compensating Victims of Overseas Terrorism

We were recently contacted by one of your assistants, [redacted] Unfortunately due to the Christmas break neither of us has managed to speak directly.

The initial enquiry was designed to seek statistics on the number of returning holidaymakers affected by foreign acts of terrorism. She has very kindly forwarded a copy of your proposed Victims of Overseas Terrorism Bill. I have managed to read its contents, and I would like to take the opportunity to commend you on your proposals.

HolidayTravelWatch™ is a National Consumer Organisation which provides information, advice and assistance to independent travellers and holidaymakers. In eleven years of operation HolidayTravelWatch™ has assisted some 130,000 travellers and holidaymakers, guiding some 43.5% to resolving the matter directly with their travel provider. HolidayTravelWatch™ has been at the vanguard of representing the views of the ordinary consumer both within the International and National arenas. We have campaigned, and continue to campaign widely, for improvements to health & safety, both politically and within the media. For those consumers who are unable to resolve their complaints directly, we guide them into the litigation process, utilising properly qualified and experienced travel lawyers. Full details of our work can be seen on www.holidaytravelwatch.com

We are aware of, and have commented extensively, on the issue of holidaymakers being sold holidays to what we refer to as, 'risk areas'.

I suspect that the difficulty for most Consumer Organisation's, is that they usually receive little contact from the victims of overseas terrorist acts. I think that this is principally because individuals are usually dealt with by Foreign Government's, The UK Foreign Office or Tour Operator (including Federation of Tour Operators) representatives.

In addition, many holidaymakers are so traumatised by the events they have been exposed to, they often accept the perceived wisdom that their presence is a weapon to be used in the 'war on terror', it is a message that suggests that as individuals we are made of sterner stuff.

This bravado however, belies the discomfort being expressed by holidaymakers and commentators alike. The Travel Industry will often hide behind the advices given by the Foreign Office, effectively, if the Foreign Office does not recommend that you do not travel to a particular Country or Resort, then it is safe to travel.

When holidaymakers do challenge the tour operator for sending them into a 'risk area', the tour operator will usually cite its defence in force majeuere.

The words of Cath Urquhart ring true in this debate. Her article in the TimesOnline (29/4/06), summarised her feelings following the Dahab bombing. She stated, "When I go on holiday I want to relax, not to be a foot soldier in the war on terror".

In response to her view, I commented, "Why should holidaymakers be lulled into a fall sense of security? It is bad enough that smiling happy resorts are sold to unsuspecting travellers; they are not privy to the detail of security warnings, and now seem to acquire the 'stakeholder' responsibility of improving the domestic politic of a country".

In a remarkable twist in the holidaymaker safety debate we also observed the comments of the Ambassador for the Yemen. He was clearly working to help the Yemenis to develop their trade and industry, and consequently sang the praises of Yemeni economy. We did not criticise those sentiments or expressions of a better future for the Yemeni people. However, within the Telegraph article (30/4/06), the Ambassador suggested, that within a country that has a population of '20 million people and 80 million guns', it was "perfectly possible for British Tourists to come here". This view was supported by the Yemen's Minister for Tourism, Nabil Alfakih. He suggested that the arrival of tourists will see the "benefits of helping to ensure stability and security, thus improving the situation".

At the time of this article we stated that we would be concerned if innocent holidaymakers were being used as part of a global solution to a political problem.

As an Organisation we rarely receive calls from those affected by death or injury following a terrorist attack. As I have previously stated, I consider that this is simply because people in those situations are dealt with by the authorities and the travel industry, in a generally sympathetic and constructive manner. However, such assistance is not designed to provide financial help or compensation, the assistance, if given, can only be described pastoral care.

However, this does not remove the basic question. In an area which has a reputation for violence and political strife, is it right that ordinary people should be sold a 'promise' when there exists a real and possible danger to their safety?

In addition, is it right that the travel industry should be allowed to rely upon a force majeure clause when they are privy to a much wider and clearer intelligence on resort safety?

I recently met with a senior member of the Travel Industry. We discussed the issue of force majeure and terrorism. It was not an area that they were prepared to concede as their responsibility, however, when challenged, they accepted that they would not take their family to certain 'risk areas'. They accepted that they held knowledge which exceeded that which was 'not available' to the ordinary holidaymaker.

The majority of people who contact us have either been close to a terrorist incident and are uninjured, or they are flown into such an area, an area which sometimes suffers a complete breakdown of its utilities and facilities, with the consequent result that people become exposed to disease.

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We have recently received a call for assistance from a client who was due to go to Thailand. Following the bombings in Bangkok, they were concerned for their safety and sought to change their booking. I have reproduced the tour operator's e mail to illustrate a typical response to a holidaymaker.

"Following on from our telephone conversation please see below details of your trip with regards to the situation in Thailand. You can cancel your trip but as the foreign office is not advising against travel to Bangkok and Phuket this would be at your own discretion so would therefore be subject to the usual [company's] cancellation charges. Due to the immediacy of your departure these conditions state that you will loose 90% of the total holiday cost. To read our conditions in full please click on this link…I also suggest you contact your insurance company to discuss your rights with regards to the situation with them. I understand your concerns regarding these recent events but I assure you that if the Foreign Office believed there was any real reason to be concerned they would release advise to reflect this which [we] would follow. As such advise has not been released unfortunately the situation is out of my hands. I hope this helps. Please contact me if you wish to discuss anything further".

Following the Sharm-el-sheik bomb in 2005, one holidaymaker pleaded with her tour operator to be sent somewhere else before departure. The tour operator would not change the holiday and insisted that they would be safe and that everything was operating in normally in the resort. Because of their concerns only half the party went - the rest of the family lost their holiday. When the others arrived in resort they found that their hotel was next door to the hotel that was blasted - their own hotel's windows were shattered. The infrastructure was impaired and there were hygiene problems which led to these holidaymakers becoming ill, and suffering with a diagnosed illness called Giardia. They were not advised as to their rights before they departed under Regulation 12 & 13 (Refund/New holiday elsewhere) of the Package Travel Regulations, nor were they advised as to their rights under Regulation 14 of the same Regulations when they arrived (Repatriation/Refund/Compensation).

The holidaymaker in question stated, ""That so called holiday robbed us of precious memories that we had spent all year saving for. They should not have allowed the holiday to commence in the first place, they should have sent us somewhere else, or given us our money back. It has left us with terrifying scars, weight loss, illness, debt and nightmares. This is something we shall never forget and we paid dearly for it".

That is one comment, I cannot conceive what those truly affected by death and injury must think.

As an exercise to accompany this letter, I carried out some research into potential trouble spots. I simply went to the BBC Website and typed in 'Egypt Attacks' 'Al-Queda Egypt' 'Bedouin Egypt' Thailand Attacks' 'Thailand Al-Queda' and simply followed the links to the stories within their pages. I attach the relevant research for your information.

Interestingly I also typed in 'Rendition'. You will note within the attachments that I have included, a map produced by the BBC, illustrating the areas of the world, thought to cooperate with the process of rendition. I make no judgement on that process that is not my role. However, from a consumer perspective and from the perspective of your proposed Bill, you can see 'risk areas' that provide us with concern.

I have been aware of the continuing debate of compensation for victims of terrorist acts, this as you know has been mostly centred upon the victims of the 7 July bombings in London.

In reviewing your proposed Bill I was interested to read of the Provisions of the Reinsurance (Acts of Terrorism) Act 1993. I presume that these provisions followed from earlier UK concerns on terrorism. From our perspective, whilst it would be ideal that holidays to 'risk areas' are not actively promoted, we would agree that Insurance is a prime source of difficulty for holidaymakers. If the Industry must promote these holiday areas, and holidaymakers must visit these areas, then the availability of Insurance, underwritten by Government, would in my view provide some advantage to holidaymakers.

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We welcome the proposal to provide compensation through the UK Criminal Injuries Compensation Scheme. As you are aware, it would be difficult for holidaymakers to pursue compensation within a Foreign jurisdiction, the only exception would perhaps be in some EU countries where similar schemes exist. We are aware of the downward pressure upon the current scheme, however, we believe that with suitable expert legal representation, most Claimant's would receive the maximum payment allowed under the UK scheme.

In promoting this Bill, I wonder whether the Government should not also insist that the Travel Industry become 'stakeholders' in its provisions, if we are all trying to promote a wider responsibility, should that not also extend itself into corporate life?

In conclusion, whilst we hold no real data on these issues, I hope that I have managed to give you an insight to a much wider problem. I sincerely hope that you succeed in passing this Bill into Law. I am certain that if the Bill receives Royal Assent, its benefits will unfortunately be received by future holidaymakers. The unfortunate part about this relates to the fact that we clearly anticipate and expect to hear of future atrocities, but I hope that your timely proposal will provide some help and assistance to those affected by such terrible events.

If there is any further information you require on this or related topics, then please do not hesitate to contact me directly.

Sincerely,

Frank Brehany
Managing Director - HTW

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