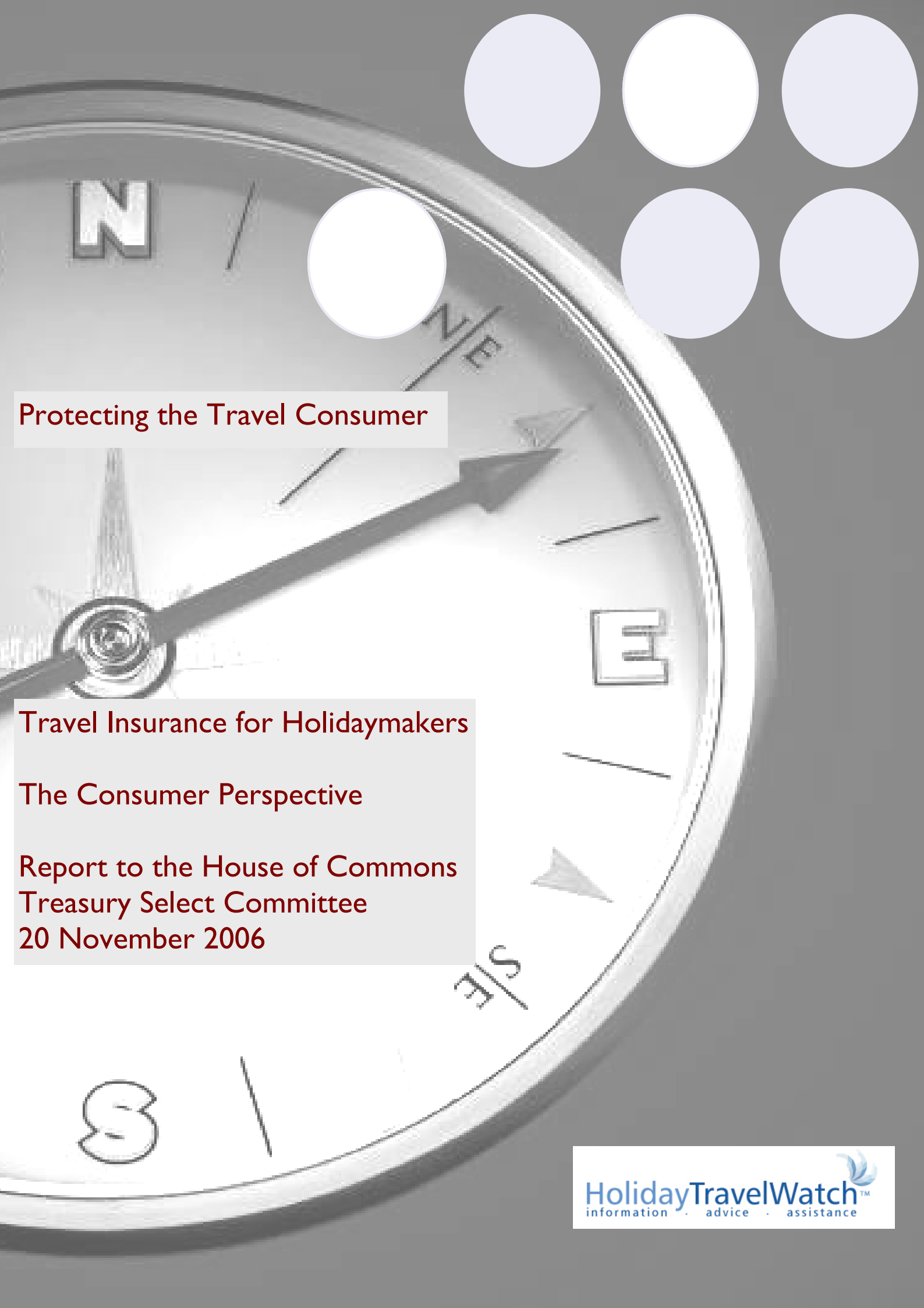

Protecting the Travel Consumer

Travel Insurance for Holidaymakers

The Consumer Perspective

Report to the House of Commons
Treasury Select Committee
20 November 2006

HolidayTravelWatch™
information · advice · assistance

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INTRODUCTION TO HOLIDAYTRAVELWATCH

The House of Commons Treasury Select Committee has requested that HolidayTravelWatch (HTW), provide a written overview of the sale of travel insurance, either generally, or through the service of travel agents or travel providers. Thereafter, HTW is to present oral evidence to the committee on Thursday 23 November 2006.

HTW submits its opinions through this report, based upon the relevant consumer opinion, and its experience of The Package Travel, Package Holidays and Package Tours Regulations 1992 (PTR).

HolidayTravelWatch is British based consumers organisation founded in 1995. Through 11 years of operation, it has provided information, advice and assistance to over 130,000 holidaymakers, through its dedicated helpline and website. This should however, be put into context with the 65,000,000 individual trips taken by British Citizens in 2005[1]. It suggests that HTW only receives a small proportion of all complaints, however, these holiday complaints tend to reflect the more serious element of contractual, illness and injury difficulties faced by the consumer.

The Organisation currently provides information and advice, facilitating some 43.5% of all travel consumers who contact HTW, to find a resolution to their travel complaint. The remaining complainants are then given the opportunity to progress toward litigation, through travel law specialists. It is estimated that approximately 65,000 holidaymakers have received such legal assistance, and have achieved in excess of £15,000,000 in compensation for their holiday complaints, holiday illness and injuries. This report will analyse the sales of travel insurance products, and where appropriate, reference will be made to relevant legal provisions. The report will also cite the relevant experience of this organisation and the travel consumer, in support of its conclusions.

[1] Lord Treisman – FCO Reception 21.3.06

INTRODUCTION TO THE REPORT

Since 1995, HTW has received a number of complaints, either about the sale or operation of travel Insurance. For many years, HTW has advised holidaymakers of:

1. The need to adopt personal responsibility for their actions and travel arrangements;

2. The possession of an E1-11 Health Insurance document, which has now been superseded by the European Health Insurance Card, and

3. The absolute requirement to carry appropriate travel insurance.

The purchase of any travel arrangement creates a seamless, but nonetheless complex contractual relationship, between the holidaymaker, the tour operator and their suppliers.

In traditional holiday contracts (package holidays), insurance contracts purchased from a travel agent or travel provider, import a similar complexity. That relationship will arise between the intending holidaymaker, the travel agent and/or tour operator, the insurance company and their agents.

The development of internet/e commerce based technologies has given rise to the 'click n'go' generation. An internet based contractual transaction can now be completed in a matter of minutes.

Despite this relatively new method of purchasing products, we again witness the same complexity in the contractual relationship. A holidaymaker purchasing a contract of travel insurance online will establish a relationship between the holiday website owner and/or the tour operator/airline/travel agent and/or the insurance company and their agents.

That complex relationship is aided by the supply of the extensive terms and

conditions that accompany travel insurance. It is suggested that whilst insurance is a very necessary part of our society, it is nonetheless, rightly or wrongly, considered by many as being dull and boring. This view stems from a product that is extensive in its legal explanations.

We must accept however, an insurance company is being asked to share in the potential risks of travel, a risk that it wants to limit through its terms and conditions.

These new consumer protections have produced slick 'essential' travel insurance product information, providing the message to the consumer; it's simple; it's straightforward; it does exactly what it says on the flyer, or does it?

The sale of the travel insurance product is now not just confined to the travel agent. A visit to a pharmacy, the post office, banks and supermarkets will provide access to the relevant flyer or a sealed pack containing the relevant travel insurance. Web based tour operators, airlines, and insurance companies all provide a 'click n'go' solution to the hungry consumer.

The shake up in the operation of the financial markets, provided the said purchasers of financial products, with clearer explanations and cooling off periods. These new consumer protections have produced slick 'essential' travel insurance product information, providing the message to the consumer; it's simple; it's straightforward; it does exactly what it says on the flyer, or does it?

HOLIDAYMAKERS EXPERIENCES & SOLUTIONS

HTW primarily deals with holiday complaints which concern holiday illness and/or contractual complaints. During the course of its contact with intending or returning holidaymakers, the organisation receives complaints about the sale of, or operation of travel insurance contracts. The following is a small selection of holidaymaker's problems and how we suggested that some of those problems were or could have been resolved.

Example A:

Mrs A travelled to France, some 7 weeks before the scheduled end of her pregnancy. She had been advised by her GP that she was fit to travel, and that she should not experience any adverse effects before her due date. She travelled by car and ferry and on arrival settled into her holiday. Halfway through the holiday, she was admitted to hospital and prematurely delivered her baby. The baby required emergency treatment in a special care baby unit. Mrs A believed that she would not encounter a problem with her travel insurance, and she was also in possession of an European Health Insurance Card (EHIC). However, she discovered that her travel insurance company refused cover, on the basis that she had travelled abroad outside the threshold period stated within her insurance. She also discovered that the EHIC only covered up to 75% of medical treatment costs in France, and it did not cover repatriation. This was not only personally distressing for this family, but it also had the potential to be financially disastrous.

HTW were not called upon to directly advise Mrs A. However, in a public statement, the organisation highlighted the need for holidaymakers to read their terms and conditions before travel. An additional issue arose over the use of an EHIC. HTW called upon the Department of Health to make a clearer statement on its promotion of the EHIC. The organisation considered that there was a need to ensure that those applying for the card were aware of the potential for a shortfall in medical costs, and that repatriation is not included.

Example B:

Mr B is a pensioner living in the South of England. He is a man in good health, with no substantial medical history or pre-existing conditions. He decided that he wanted to travel to Italy on a traditional package holiday. He booked the holiday through a small but established tour operator. At the time of booking, he realised that his annual travel policy had expired.

‘the managing director encouraged him to go ahead stating that, “any bad news is always good news” ‘.

He advised the tour operator, who told him that he could not travel unless he purchased their travel insurance. He was quoted a premium of £400. Mr B knew that he was being overcharged and when he protested to the tour operator, the managing director encouraged him to go ahead stating that, “any bad news is always good news”. Mr B felt that as he had bought the holiday, he had no option but to purchase the insurance.

HTW was advised by Mr B that the holiday was a disaster for him and a number of other holidaymakers. He was advised as to his rights under the Package Travel Regulations (PTR), and he chose to try and establish his own resolution with the tour operator. With regard to his insurance complaint, he was advised as to the ABTA Code of Conduct, but he indicated that he wished to pursue his insurance complaint through his membership with another consumer grouping.

Example C:

Mr C went on holiday to Florida with his family. Before travel he purchased travel insurance through his travel agent. During the holiday, his daughter developed a water infection requiring emergency treatment. Once the treatment was completed, he was informed that the insurance company, through which his policy was held, was ‘blacklisted’. The apparent reason was that the insurance company had failed to pay

its bills with several hospitals within the Orlando area. This dire situation required the family to immediately use its reserves of $400, effectively ending their holiday. They attempted to contact the tour operator's representative for further assistance, but their calls were not returned. Mr C rang the insurance company in England. They confirmed that they knew of the problem in Florida but could not offer the family with any assistance.

Upon his return to the UK, Mr C discovered that the travel agency was still selling the same policy to potential holidaymakers. The agency stated that they were unaware of the problems he experienced whilst he was on holiday and could offer him no further assistance.

Mr C contacted HTW and was advised to write to the insurance company. At first they did not respond, so he was advised to contact the Financial Services Ombudsman. The response he received was less than satisfactory. He was advised that as he had been re-paid the $400, there was nothing further they could do.

"Once the treatment was completed, he was informed that the insurance company through which his policy was held was 'blacklisted'. The apparent reason was that the insurance company had failed to pay its bills with several hospitals within the Orlando area".

The organisation found the responses from the travel agent and the Ombudsman to be staggering. It was considered important to confront the issues raised by the travel agents/tour operator's failure to investigate a product designed to provide the holidaymaker with the ultimate protection, when something goes wrong. Equally, it was also important to confront the issues raised by the insurance company's failure to pay its bills and provide the contracted cover. More importantly, this was an insurance company not based within the UK; there was a need to confront the ethical operation of this product. With HTW's guidance, Mr C wrote to the travel

agent/tour operator; the insurance company, and the Financial Services Ombudsman to investigate and report on this serious issue. To date, HTW has not been advised as to the outcome of those further complaints.

Example D:

Mrs D booked and paid for a holiday with a travel agent, for her family which also included her Father. At the time of booking, she advised the agent that her father had not been well, and that this holiday was to aid his recuperation. At the time of the booking, she also purchased travel insurance. Regrettably, Mrs D's Father became too ill to travel, with the result that the family had to cancel the holiday. When Mrs D tried to resolve the problem with the travel agent, she was referred to the insurance company. The insurance company referred to their terms and conditions; she had not advised of her Father's pre-existing conditions at the time of arranging the insurance contract, therefore no cover could be provided; the family would lose their holiday cost.

HTW advised of the difficulties of pursuing the matter through litigation. Mrs C was advised of the ABTA Code of Conduct, and she was advised to write to the insurance company. In addition, she was also advised to contact the Financial Services Ombudsman to seek their advice and guidance.

Example E:

Mrs E booked a holiday with a travel agent for herself and her husband. At the time of booking, she advised that she had travel insurance, and therefore rejected the offer of travel insurance. At no stage did the travel agent seek to confirm the details of the insurance before confirming the booking. Unfortunately, several hours after she booked the holiday, her husband became ill, and she had to cancel the holiday with the resulting loss of the holiday cost. Mrs E protested to the travel agent and the tour operator, to no avail. The travel agent/tour operator refused to accept that they had responsibility. HTW sought to promote a sensible settlement through letter writing advice or to progress the matter through litigation. To date, HTW has not been advised as to the outcome of Mrs E's attempts to resolve the matter.

THE HOLIDAYTRAVELWATCH MYSTERY SHOPPING EXPERIENCE

In the course of considering the issues of purchasing travel insurance, the author of this report decided to engage in a 'mystery shopping' experience. Whilst it is important to use the experience of genuine consumers, it was also considered important to understand the process by which the consumer can purchase their travel insurance. It was decided to explore the process through the attempted purchase of a travel insurance in travel shops, a supermarket, a pharmacy and through the internet. We considered it important to establish the method of selling, and how flexible travel insurance policies were. When returning holidaymakers contact HTW, it is usually because they have encountered some illness and/or contractual problem. They often discover the legal expenses insurance they purchased; either prevents them from using the policy to sue the travel agent/travel provider or provides no choice on the solicitors they can choose.

Tui Travel Shops

The first visit took place on Wednesday 15 November at the New Street Birmingham Branch. Unfortunately, no representative was available. An examination of the shelves and public areas, found that there was no information on travel insurance, only brochures were available.

The second visit took place on the same day at their Bull Ring Birmingham branch. A request was made for a travel brochure, followed by information on travel insurance. We were advised that no holiday would be sold without a relevant travel insurance policy being in place. We were advised that they could provide travel insurance, and that it would be added to the final bill. No insurance brochure was available. However, the assistant did print off a summary of the insurance 'benefits'. The summary provided basic details, but no information on exclusions; it was not possible to establish the nature of the limits to any travel insurance policy or its exclusions. No terms and conditions were available; these would be given at the time of purchase. When questioned about whether 'external' insurances would be acceptable, we were advised that at the time of booking details of the insurance company and the policy number would have to be provided before the holiday

booking could be confirmed. The Thomson Holiday Brochure confirmed this information, it states;

"All party members, including infants and children, must be adequately insured on holiday, and this is a condition of booking with us. You may either: accept our recommended policy, in which case the premium will be added to your holiday invoice; or choose a policy at least as good with another company. If you choose a different company, you must tell us so that the insurance company details and policy number can be recorded by us. We must have this information before we can confirm your booking. Details of our recommended policy are available upon booking. Adequate insurance is important in case your holiday is affected before or after departure by illness and other events beyond our control as we do not pay compensation for these".[2]

Thomas Cook

The Bull Ring Branch in Birmingham was visited on Wednesday 15 November 2006. An examination of the store could not establish any available detail on travel insurance. We managed to speak with an assistant who initially had difficulty in finding information on travel insurance. She spoke with a colleague who found some brochures at the bottom of a cupboard. The assistant provided us with that insurance brochure. We discovered that where a personal injury had occurred, benefits were limited to death or permanent disability. It did not include injury through food poisoning or water borne diseases. There was a general exclusion to benefit for any pregnancy related issue beyond 8 weeks.

With regard to legal expenses, the holidaymaker was excluded from using this benefit for;

"Claims against a carrier or the travel or holiday agent or tour operator arranging an overseas journey covered by this insurance or AXA Insurance, AXA Assistance or their agents

[2] Thomson Destinations Summer Collection – April to October 2007 2nd Edition (P.541)

Claims where in our opinion there are no reasonable prospects for success"[3]

Within the Thomas Cook Brochure there is a summary of the potential cover that can be provided, warning the reader of the need to provide details of pre-existing conditions. Within the same brochure, there is a section marked 'Before You Travel', it states;

"You must take out Holiday Insurance suitable for your needs before you travel. We cannot be responsible for any costs you incur as a result of failing to do so. For your own peace of mind the insurance should cover you if you have to cancel your arrangements, or for any emergencies that arise while you are away. We recommend the insurance we offer (see page 538) as it provides cover, which meets most people's needs. Please check your policy when you receive it and take it with you on Holiday".[4]

When we were provided with the insurance document and brochure, we were not advised about our own insurance, or whether it was a formal requirement of the booking.

We then turned our attention to Boots The Chemist, High Street, Birmingham. We visited the store on Wednesday 15 November 2006. It took several attempts to establish the location of travel insurance information. We were directed to several flyer leaflets, one dealing with multi-trip policies, the other for city breaks. The first brochure briefly described the benefits and cost. It contained no information on exclusions or duties of pre-disclosure. The city breaks brochure contained some information on exclusions in medical cover (these being principally pre-existing conditions). There are references to policy wording and helpline numbers to aid in the completion of the application form. Within that document, there is reference to regulation by the Financial Services Authority and that they are covered by the Financial Services Compensation Screen. When requested, we were advised that the full policy document would be made available on purchase; it was not available prior to purchase.

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[3] Enjoy your holiday with our travel insurance – 6th Edition (P. 31)
[4] Thomas Cook Summersun – 2nd Edition – April to October 2007

On 16 November 2006 we sought to purchase travel insurance from the supermarket store, Tesco, Hall Green, Birmingham. On display were sealed packets containing 'ready made' policies for different travel requirements. Examination of those packets did not reveal the nature or summary of cover. We requested that information from the customer service desk within the store. Two assistants sought to provide a summary fact sheet but could not find any. They stated that the only way to determine the nature of the cover was to buy the product and if it was not satisfactory, to return it to them for a refund. The alternative was to visit their website where it was thought that the summary and terms & conditions could be located.

Our next shopping experience came from 3 internet providers:

1. www.insureandgo.com was examined on 19 November 2006. The web portal was quite simple to negotiate and within minutes, we had chosen a 'Silver' single policy for travel in Europe in December 2006 for £9.26p. A simple summary of the cover was available, but it took several minutes for us to determine that the full terms and conditions were available on the top toolbar. We discovered the terms and conditions amounted to 24 pages of script. Similar exclusions for medical claims were found in this policy that were found in earlier 'shopping' discoveries. The legal expense facility included the exclusion as to use if they considered that the claim would not be successful, and that no claim could be entertained against them, their agents, their representatives, a tour operator, a provider of accommodation or against anyone who arranges travel.[5]

2. www.easyjet.com was examined on 19 November 2006. The web portal directed the 'shopper' to a separate page – www.easyjet4insurance.com – and a search for appropriate insurance was carried out. We sought insurance for a 10 day trip to Turkey in July 2007. We were provided with a quote and a summary of cover. Again we encountered some difficulty in establishing the full terms and conditions, but found those

[5] www.insureandgo.com – 19 November 2006

under the 'Product Information' section. We discovered that we had changed sites again. We were now met with a message at the bottom of the page which stated, 'Welcome to Mondial Assistance Group E Commerce Website Authorised by the Financial Services Authority'. Within the product information, we established the extent of cover and exclusions. Before we could purchase the insurance we had to 'sign' an online warranty dealing with pre-existing conditions, these conditions were extensive and would need careful consideration by any consumer. Further exclusions contained a limit on legal expenses whereby the policy could not be used to sue the tour operator, travel agent, a carrier or easyjet. Where there was a claim for physical injury, no payment could be made to someone who was under 15 years of age and had suffered a permanent physical injury. Where an motor cycle injury was claimed, this would not be entertained if the injured party had not worn a crash helmet. No claim could be made where there was a failure by the tour operator or airline to provide transport in the event of a cancellation. In pregnancy claims, no such claim would be entertained if the pregnancy was beyond 24 weeks outside Europe and 28 weeks within Europe.[6]

3. www.ryanair.com was examined on 19 November 2006. Again we sought a quote for European travel in December 2006. We were provided with the option of cover with a Ryanair flight, or cover with another airline's flight. We chose Gold Cover and Scheduled Airline Failure Cover for £12.25p. Within the viewing window there was a 'cover details' summary button. This provided a brief summary of the available cover for the premium. After searching, we discovered that the policy documentation was contained in a menu on the left hand side. When we opened this facility, we discovered an array of .pdf documentation. We chose the gold cover information. Under legal expenses, the exclusion revealed that the policy could not be used to sue Ryanair, the Underwriters of the policy or the Insurance Company. Medical exclusions again mirrored previous policies examined, but we

[6] www.easyjet.com – 19 November 2006

found that this policy excluded the costs of private medical treatments, and claims had to be notified within 14 days. When we examined the Scheduled Airline Failure Cover we discovered that claims could not be made in 'force majeure' situations or where other policies existed. We then chose a policy without a Ryanair flight and received a quote for £25. This however did not include the Scheduled Airline Failure cover, which was not available.[7]

It was clear from our 'shopping experience', that the consumer is faced with a bewildering amount of information and some difficulty in accessing that information. What is of greater concern is the manner in which these policies are sold and the exclusions that are attracted by such policies. It is likely that many people do not read the terms and conditions, or find accessing them difficult. We would suggest that the average consumer would need to be quite determined to cross-check policies and exclusions before being in a position to make an informed choice.

"We would suggest that the average consumer would need to be quite determined to cross-check policies and exclusions before being in a position to make an informed choice".

[7] www.ryanair.com – 19 November 2006

DEVELOPMENTS WITHIN THE PACKAGE TRAVEL, PACKAGE HOLIDAYS AND PACKAGE TOURS REGULATIONS 1992 (PTR)

It is not only important, but also relevant to place the issue of travel insurance within the context of other consumer protections.

The Campaign by HolidayTravelWatch, highlighting the threat to the rights currently enjoyed by many thousands of British Package Holidaymakers, suffered a blow when the Court of Appeal supported the case brought by the Association of British Travel Agents (ABTA) against the Civil Aviation Authority (CAA).

The case arose when the CAA issued guidance which required travel agents to obtain an Air Tour Operators Licence (ATOL), whenever they created or sold a Package Holiday.

ABTA sought to challenge the decision making process of the CAA through Judicial Review. They contended that the guidance and requirements on the travel agents were flawed, and that the decision of the CAA should be overturned.

The importance of this bond cannot be underestimated. The ATOL Licence must be taken out by an organiser who sells an air package holiday. This Bond protects the holidaymaker whenever a holiday company goes bust. It provides a lifeline to a holidaymaker and for that matter the supplier, who is stranded as a result of the failure.

The cover allows for the continuation of the holiday, or the return of the holidaymaker back to their home airport. Many ask us, why is this case important? If it only affects travel agents, how can that affect the holidaymaker who buys his holiday from a tour operator?

The guidance was issued by the CAA, because an imbalance was being created within the travel market in the way holidays are being sold. The advance of internet and broadband technologies has seen a rapid demand for the services provided by the

low cost budget airlines. The speed of this growth has cut to the very heart of the Travel Industry, and in its wake follows the travel consumer.

The importance of this case is not just about whether a travel agent needs an ATOL Licence; it was also about the definition of a Package Holiday. The question asked was, how could a travel agent be held to be creating a Package Holiday, when conversely a budget airline does exactly the same thing through their website, but they do not require bonding?

It exposed the lack of courage by the Travel Industry and successive Government's, in not challenging the airline industry's untouchable monopoly. We know from the earlier court decision, that the lower court held that the definition of a Package Holiday, contained in the Package Travel Regulations (PTR), was somewhat redundant, out of date. The court was not tasked with redefining the Package Travel Regulations, merely to understand how the CAA made their decision and whether that process was flawed.

The Court of Appeal was attracted to the argument made by ABTA, that in the purchase of an online holiday product, it was akin to purchasing the week's shopping, and therefore not one product, but many. As a result there could be no package. However, the Travel Industry did not have it all its own way. The Court of Appeal raised the real possibility of uncertainty, effectively asking, when is a package not a package – when it is a question of fact!

The full copy of the Court of Appeal judgement can be viewed at this link - http://www.abtamembers.org/download/finaljudgement.pdf

However, if the industry follows the new generation companies and budget airlines, the fear is that they will also follow the court's comments on what constitutes a package.

In an article in the Travel Trade Gazette (21/7/06), David Moesli director of the CAA's consumer protection group stated,

"I think the Wild West, if it is not here, is on the way—and the cavalry is not coming".[8]

The state of the package holiday was addressed by travel journalist Jeremy Skidmore in the Western Mail (20/9/06), he stated,

"It's no exaggeration to say that the travel industry is unravelling before our eyes. The package holiday, once a desirable goal, is now something that millions of people are turning their backs on".[9]

In TravelMole (20/10/06), Peter Rothwell from TUI said,

"We have been nervous about selling flights and accommodation together, because of being liable if something goes wrong...on dynamic packages, we would no longer be liable, for example, for the behaviour of Pedro the waiter or a dodgy car hire fire in resort".[10]

The purpose of this section is to demonstrate the real threat to the travel consumer, from an unregulated and unprotected travel market. If that threat materialises, we suggest that it will unleash a holiday misery not seen since prior to the inception of the Package Travel Regulations in 1992. Amongst those potential problems, lay the thorny issue of a travel industry selling holiday insurances that may not be appropriate to consumer needs or protection.

[8] Travel Trade Gazette – 21 July 2006
[9] Western Mail – 20 September 2006
[10] TravelMole – 20 October 2006

PROBLEMS AND SOLUTIONS WITH TRAVEL INSURANCE

In determining the issue of travel insurance and the travel industry, a number of important considerations arise.

The ABTA Position:

The position of travel agents/tour operators and travel insurance is governed by the ABTA Code of Conduct. Rule 1.7 is summarised thus:

- Members shall draw the client's attention to the availability of 'insurance cover to suit their client's requirements';
- Where a policy is issued, it 'shall be appropriate for the client's requirements';
- 'Members shall ensure that client's are aware of the need to comply with the insurance company's requirements and of their duty to disclose to the insurance all relevant information, e.g. pre-existing illness';
- Members have to 'strictly comply' with an insurance company's terms of business and make prompt provision of financial returns;
- Insurance which is not arranged by the Principal must be provided within 48 hours;
- The remainder of the of the Code deals with the identification of cover, the suitability of any other insurance not supplied by the Member, and any policies sold are appropriate to the holidays sold.[11]

We have already discovered, through the holidaymaker's experiences in this report, the perilous state of cover, understanding or operation of travel insurance. It is clear that the majority of holidays do not require the activation of the travel insurance policy, and therefore there will be the argument that the sale of insurance policies works, that it does not require regulation. However, it is also clear from the case studies produced, that there is an element of the travel industry that does not comply with the rule as stated above.

[11] Holiday Law – 3rd Edition – Grant & Mason (Pgs – 563 & 564)

In light of the scenarios produced, we must ask, what steps does ABTA or the Insurance Industry take to monitor the sale of travel insurance?

How many travel agents or tour operators have been disciplined under the said Code of Conduct for breaching its professional obligations?

How many travel agents/tour operators have been reported by the insurance industry to the Regulator or ABTA for any failures determined?

How many holidaymakers have been compensated under the Financial Services Compensation Scheme?

Is it right that some parts of the travel insurance industry clearly state their Regulatory responsibilities under the Financial Services Authority, whereas the bulk of the travel industry is not required to be so regulated?

What real protection is afforded to the consumer by the 'unregulated' part of the industry?

Is it time to provide a safety net 'premium' for those holidaymaker's caught either through ignorance, or mistake, as identified in the cases of Mrs A & Mrs E above?

Is the complaint's process of ABTA or the Regulator rigorous enough, or consumer focussed to deal with the similar problems as identified in the cases of Mr B & Mr C above?

"It is time to import a greater corporate ethic into complex consumer contracts, the age of the 'laissez-faire' approach to consumer relations, must surely be past its sell by date?"

Does the sale of a complex financial consumer contract, now require the additional protection of regulation, in a real and growing unregulated market?

We consider that these questions now form the basis of a long overdue enquiry, for the benefit of the ordinary consumer, against an industry which has vast resources. This same industry will argue that Regulation will make them uncompetitive and unattractive. We disagree. We consider that the failures to address the problems identified by the case studies above, is more widespread than we know. It is time to import a greater corporate ethic into complex consumer contracts, the age of the 'laissez-faire' approach to consumer relations, must surely be past its sell by date?

Is the Consumer Really Protected?

The theme from our 'shopping experience' confirms a long held view of this organisation, the view that contracts of holiday insurance do not support the real protection of the holidaymaker.

The principal concern is the operation of the legal expenses clause. Can it be right, that a consumer, who enjoys the protections of the PTR, is then prevented from using that insurance policy to pursue legal action against the travel provider?

Indeed, what does that say about the relationship between the insurance industry and those travel providers?

"Is it time for the Office of Fair Trading (OFT) to investigate these issues?"

If the product sold is a safe product, following all the established practices and principles to protect the consumer, then why should a consumer be prevented from challenging the service provided through want of funds?

Additional issues arise as to choice of a legal advisor. Many holidaymakers discover that they cannot use a recommended solicitor; they are required to use the in house solicitor of the insurance company. It raises the question, what experience does the

insurance company have in assessing or handling travel claims?

The legal expense clause exclusion suggests an incestuous relationship between the travel industry and the insurance market, it raises further questions:

- Where is the consumer choice?
- Does this not suggest the operation of a cartel?
- Is it time for the Office of Fair Trading (OFT) to investigate these issues?

The examination of insurance contracts, through our 'shopping experience', reveals a fairly standard approach by the insurance industry, in drafting their term & conditions. If the conditions are generally standard, then why can the consumer not expect a standard travel insurance contract? Surely this would import more certainty into travel insurance contracts, and raise consumer awareness as to the type of product they would be buying? Arguments will be raised that this cuts into a company's competitive edge. We are not convinced. There are already moves to standardise the operations of the courts in the UK, harmonise laws within the EU, why not the terms & conditions of a contract of insurance?

CONCLUSION

The review by this Organisation into the issue of the sale of travel insurance in holiday contracts has been long overdue. We do not represent this to a be a full or accurate enquiry. Because of the difficulty of accessing information, the likelihood exists that as an 'interested ordinary consumer' we may have missed essential points. We suggest this potential fallibility represents the real world of the travel consumer.

We consider that the consumer is the weaker element in such sales and contracts. Who speaks for the consumer, who protects his or her rights? What steps are necessary to promote a confident bargain between the consumer and the vastly resourceful travel and insurance industries?

We suggest that there is sufficient concern to raise the possibility of a general public enquiry, or at the very least, an enquiry by the OFT into the matters raised by this report.

Without such enquiry, we fear a scandal regarding the mis-selling of such policies will arise, the loser ultimately being the consumer.

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20 November 2006