EXPLANATORY MEMORANDUM TO

THE CIVIL AVIATION (CONTRIBUTIONS TO THE AIR TRAVEL TRUST) REGULATIONS 2007
2007 No. 2999

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. **Description**

   These regulations require applicants for and holders of an Air Transport Organiser's Licence (ATOL) to make financial contributions to the Air Travel Trust (the Trust) with effect from 1st April 2008 (the Operative Date).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

   None

4. **Legislative Background**

   The Civil Aviation Act 2006 inserted new sections 71A and 71B into the Civil Aviation Act 1982 that give the Secretary of State for Transport powers to make regulations making provision for and in connection with requiring persons applying for an ATOL to make contributions to the Trust. The relevant sections of the Civil Aviation Act 2006 were commenced on 1 March 2007[1].

5. **Territorial Extent and Application**

   This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

   As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. **Policy background**

   <u>Background</u>

7.1 The ATOL system provides financial protection to those taking overseas flight inclusive package holidays. It ensures that in the event of a tour operator becoming insolvent, consumers already abroad can complete their holidays and be repatriated to the UK and those who have paid for their holidays but have not yet departed will receive a full refund. It is operated by the Civil Aviation Authority (CAA).

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[1] SI 2007/598

7.2 The system was first established on a statutory basis in the UK in 1971 and is now the subject of the Civil Aviation (Air Travel Organisers' Licensing) Regulations 1995 (the ATOL Regulations)[2], made under the Civil Aviation Act 1982. Europe-wide protection for all package holidays was introduced in 1990 with the Package Travel Directive, which requires that package tour organisers and retailers provide evidence of security for the refund of money and for repatriation in the event of insolvency. This is implemented in the UK by the Package Travel, Package Holidays and Package Tours Regulations 1992.

7.3 ATOLs usually run for one year. A requirement of a licence being granted is that the licence holder puts in place financial arrangements in case of insolvency. The great majority of businesses are required to provide a bond of between 10% and 15% of their forecast annual licensable turnover.

7.4 Proceeds from the bond are available to meet consumer refund and repatriation expenses should the firm become insolvent. If the refund and repatriation expenditure is greater than funds available from the bond, the Trust provides funding to meet any excess.

Air Travel Trust

7.5 The Trust is managed by a Board of Trustees made up of CAA Board members and officials but has a separate legal (non-statutory) constitution. Its forerunner was established in 1972 and a sizeable fund was built up through a statutory levy on ATOL holders, collected from 1975 to 1977. The previous power to require contributions by air travel organisers contained in Section 4 of the Air Travel Reserve Fund Act 1975 was repealed by the Statute Law (Repeals) Act 1995 Schedule 1 Part V Group 2.. Following the failure of a large ATOL holder in 1991, the Trust went into deficit in 1996. Costs falling to the fund were then met through a bank overdraft guaranteed by Government. At the end of March 2007, the Trust's overdraft was £ 20.1 million. The overdraft is supported by a Government guarantee of £31 million.

7.6 The Civil Aviation Act 2006 established new powers for the Secretary of State to make regulations requiring contributions to the Trust.

7.7 The Government believes that ATOL holders should meet the full costs of providing the financial protection required by EU and domestic legislation for those booking air package holidays, including costs met by the Trust since the fund has been in deficit. In the absence of intervention, the Trust's deficit would increase with no prospect of it being repaid by industry. The deficit would eventually have to be borne by the taxpayer

Alternatives to ATOL bonding

7.8 The market for holidays based around flights has grown substantially since the late 1990s with the advent of internet bookings, low cost airlines and the growth in overseas home ownership. The market has also changed significantly with more consumers buying separate holiday components. As a proportion of all UK leisure air travel, holidays in the ATOL scheme fell from 84% of the total in 2000 to around 60% in 2006[3].

7.9 The increasing popularity of scheduled low cost carriers, which sell directly to the public and are not required to hold an ATOL licence for seat only sales, has led tour operators to argue that the requirement to have an ATOL, in particular the additional costs this imposes on them by having to obtain bonds, creates a market distortion that puts them at an unfair disadvantage.

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[2] S.I. 1995/1054.

[3] ATOL Business Issue 29

7.10 In late 2005 the Government asked the CAA to consider ways of reforming ATOL bonding to reduce costs on ATOL holders in line with better regulation principles while maintaining the same financial protection for consumers.

7.11 Informal consultation with tour operators and other interested parties by CAA in early 2006 indicated that it could be possible to reduce the overall costs associated with compliance with the financial protection requirements by moving to a per passenger contribution, referred to as the ATOL Protection Contribution (APC), paid by ATOL holders into the Trust as a replacement for ATOL bonds.

Consultation

7.12 The Department for Transport and CAA undertook a joint 12 week consultation on options for the reform of ATOL bonding and replenishment of the Air Travel Trust Fund from 2 April 2007 to 29 June 2007. This sought the views of ATOL holders, their representative organisations, the trustees of the Trust and other interested parties. The consultation outlined two options for reform

- An option where ATOL bonding remained and a separate levy on ATOL holders to replenish the Trust was introduced using powers established by the Civil Aviation Act 2006

- A further option where a £1 per passenger APC was introduced under powers in the Civil Aviation Act 2006, both as a replacement for ATOL bonds and also to replenish the Air Travel Trust Fund. The APC would be paid into the Trust, which would meet all costs arising from insolvency of an ATOL holder.

7.13 A draft of the regulations required to introduce either option was included in the consultation document. The final version is a joint work product of the CAA and the Department.

7.14 The process summarised above met the Secretary of State's duty under section 71B of the Civil Aviation Act 2006 to consult the CAA and the trustees of the Trust prior to making regulations. It also fulfilled the CAA's duty, under the same section, to consult so far as practicable ATOL holders and other bodies appearing to have an interest in the matter.

7.15 88 responses to the consultation were received, and a summary is available on the Department for Transport's website. There was widespread and strong support for the option of introducing the APC, which was supported by 95% of the 74 respondents that expressed a view on this point. There was very little support for the continuation of bonding with a separate top up levy - 95% of the 64 respondents who replied to a specific question on this opposed it. The support for the APC option came from a wide range of ATOL holders and included all the main travel industry representative bodies.

7.16 One organisation that strongly opposed the introduction of the APC was the Association of British Insurers (ABI) which represents insurance companies who provide bonds for ATOL holders under the current arrangements. ABI's concerns included that it believed the APC was not sufficiently risk based, which, it argued, would mean an increase in the number of ATOL holders becoming insolvent, so the £1 APC would be insufficient to ensure the financial position of the Trust in future. ABI also argued that an APC would reduce choices for ATOL holders as to how they meet their obligations to provide financial protection. ABI proposed alternative measures to reform ATOL bonding that it believed would meet Government's concerns.

7.17 The Department considered these views carefully and met ABI to discuss them. While not agreeing that the APC arrangements were insufficiently risk based or that £1 was not sustainable, the Department recognised that the APC would potentially reduce compliance options for ATOL holders. To this end, the CAA has proposed to continue and extend the 'franchise' arrangements allowing ATOL holders licensed for up to 1,000 passengers p.a. close to 70% of all ATOL holders, a further option to meet their obligations. The Department will also review the APC once the Trust is stable, in around 3 to 5 years, including consideration of whether other compliance options could be introduced.

7.18 Following consideration of all the consultation responses, on 22nd August 2007 the Minister for Aviation announced his intention, ‘in principle’, to proceed with the introduction of a £1 APC to take effect from the Operative Date. This 'in principle' decision recognised that CAA had to carry out further work to establish that elements of the proposed new arrangements for the APC would be deliverable, including initial negotiations on the terms of an insurance policy to protect the Trust in the event of the failure of one of the largest ATOL holders. CAA undertook this work in August and September 207 and provided the Minister with the assurance that the proposed arrangements were deliverable in late September, allowing the ‘in principle’ decision to be confirmed.

7.19 The Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007 are a key part of implementing this decision.

8. Impact

A Regulatory Impact Assessment is attached to this memorandum.

9. Contact

Tom Oscroft at the Department for Transport, Tel: 020 7944 65488 or e-mail: tom.oscroft@dft.gsi.gov.uk can answer any queries regarding the instrument.

FINAL REGULATORY IMPACT ASSESSMENT

Section 1: Title of proposal

Reform of Air Travel Organisers Licensing (ATOL) bonding arrangements and replenishment of Air Travel Trust Fund (ATTF).

Section 2: Purpose and intended effect

Objective

1. The objectives of the reforms proposed are:
    - o to simplify the current system of ATOL financial protection in line with better regulation principles including reducing regulatory costs to those companies that currently require an ATOL bond.
    - o to replenish the ATTF as provided for by the Civil Aviation Act 2006
    - o to ensure industry meets the full cost of financial protection for air package holidays required by EU and UK legislation
    - o to help improve consumers' awareness of whether their holiday is ATOL protected.
2. The ATOL system covers the whole of the United Kingdom.

Background

3. The ATOL system provides financial protection to those taking overseas flight inclusive package holidays. It ensures that in the event of a tour operator becoming insolvent, consumers already abroad can complete their holidays and be repatriated to the UK and those who have paid for their holidays but have not yet departed will receive a full refund. It is operated by the Civil Aviation Authority (CAA).
4. The system was first established on a statutory basis in the UK with the ATOL Regulations, made under the Civil Aviation Act 1971. Europe-wide protection for all package holidays was introduced in 1990 with the Package Travel Directive (PTD). This is implemented in the UK by the Package Travel, Package Holiday and Package Tours Regulations 1992 (PTR).

2. ATOL also covers flight-only sales by companies other than an airline or an agent that supplies the ticket immediately. These companies, and those selling package holidays that include a flight, are required to hold an ATOL. In 2006, this comprised some 2,500 businesses, providing 26 million air holidays and flights[4]. The CAA issues these licences and the ATOL holders pay the costs incurred by CAA in administering the ATOL system through annual charges, estimated at £5.5m in total in 2005, or around 16p per passenger[5].
3. Licences usually run for one year and are renewed in March or September. A requirement of a licence being granted is that the licence holder puts in place financial arrangements in case of insolvency. The great majority of businesses, including all the largest operators, do this by providing a bond of between 10% and 15% of their forecast annual licensable turnover.

[4] ATOL Business 29
[5] CAA Performance Indicators show that in 2005 this was a total of £5.5 million, an average of 16.4p per passenger.

4. ATOL holders incur costs in obtaining ATOL licences and complying with the requirements of the system, including the cost of obtaining bonds. There are three elements of this cost:

   - the direct costs, paid to bond obligors.

     Information provided by tour operators in response to a consultation (see below) suggests this cost varies, partly according to the size of the tour operator. The Association of Independent Tour Operators (AiTO) estimates that for their members - predominantly small to medium size companies, the cost is an average of £2.50 per passenger. Larger tour operators pay less than this. The Federation of Tour Operators (FTO), representing the largest companies implies bonding costs are around £1 per passenger. Individual large tour operators estimate their costs to be in a range either side of £1. This is consistent with estimates provided by Association of British Insurers (ABI), who estimate a cost for insurance bonds of between 80p and £1.25 per passenger. Based on 26.3m passengers in 2006 and that 55% of these were carried by large ATOL holders with a bonding cost of £1 per passenger with the remaining 45% at £2.50 as per the AiTO estimate, the total annual direct cost of bonding to ATOL holders is £44m.

   - compliance costs. In addition to direct costs, ATOL holders face compliance costs related to holding a licence, including those associated with bonding, in terms of management time and effort. AiTO estimate total compliance costs for the 140 companies it represents to be in the region of £1.4 million p.a., with those arising from bonding accounting for half this amount. In responses to consultation, a number of large companies also commented on the administrative and compliance burden of bonding, but without giving cost estimates. Compliance costs partly arise from the complexity of the bonding approach in its relationship to ATOL licences.

   - other costs. ATOL holders who obtain bonds from banks face further costs in that the value of the bonds reduces capacity in balance sheets to raise funding for investment or other purposes. ATOL holders who bond with insurance companies do not face this cost. The value of bonds is based on estimated annual passenger numbers when a licence is applied for. These estimates are inevitably uncertain, and tour operators are likely to overstate them to avoid having to vary their licence and bond mid-year in the event of higher then expected passenger numbers. This is known as 'overbonding', which CAA estimate can add between 7% and 11% to total bond costs.

5. Proceeds from the bond are available to meet consumer refund and repatriation expenses should the firm become insolvent. If the refund and repatriation expenditure is greater than funds available from the bond, the Air Travel Trust Fund (ATTF) provides funding to meet any excess.

6. The ATTF is managed by a Board of Trustees made up of CAA Board members and officials and is a separate legal entity to the CAA. Its forerunner was established in 1972 and a sizeable fund was built up through a statutory levy on ATOL holders, collected from 1975 to 1977. This was set at 2% of the average price of a holiday for the majority of the collection period. Interest earned on the amount held meant that the fund continued to grow until the failure of the tour operator ILG in 1991, the second largest ATOL holder at the time, which depleted the funds to such an extent that investment income was no longer high enough to offset claims. The CAA's power to levy the industry had lapsed in 1986 and the ATTF went into deficit in 1996. Costs falling to the fund were then met through a bank overdraft guaranteed by Government.

7. At the end of March 2007, the ATTF overdraft was £20.1 million. The overdraft is supported by a Government guarantee of £31 million. The Civil Aviation Act 2006 gives

fresh powers to the Secretary of State and CAA to make regulations requiring ATOL holders to contribute to the ATTF.

8. In 2006/07, 27 ATOL holders became insolvent. The proceeds of insolvent licence holders' bonds and the ATTF provided refunds to 54,116 passengers and repatriated 4,706 passengers, the total cost of which was £14.2 million[6]. Expenditure on refunds and repatriation varies from year to year. Over the past 10 years the average annual expenditure has been £5.5 million[7]. There has been no failure of a major tour operator in this period.

9. The market for holidays based around flights has grown substantially since the late 1990s with the advent of internet bookings, low cost airlines and the growth in overseas home ownership. The market has also changed significantly with more consumers buying separate holiday components. As a proportion of all UK leisure air travel, holidays in the ATOL scheme fell from 84% of the total in 2000 to around 57% in 2006[8].

10. The increasing popularity of scheduled low cost carriers, which sell directly to the public and are not required to hold an ATOL licence for seat only sales, has led tour operators to argue that the requirement to have an ATOL (in particular the additional costs this imposes on them by having to obtain bonds) and the liability that falls to them under the PTD creates a market distortion that puts them at an unfair disadvantage.

11. In late 2005 the Government asked the CAA to consider ways of reforming ATOL bonding to reduce costs on ATOL holders (while maintaining the same financial protection for consumers) and in particular the introduction of a per customer levy (referred to here as the ATOL Protection Contribution - APC - previously referred to as a Consumer Protection Charge).

Rationale for Government intervention

12. Provision of consumer financial protection for package holidays is a requirement of the EU Package Travel Directive, as discussed above. There is therefore little scope to reduce the requirements for financial protection, although the PTD itself is under review by the European Commission as part of the wider review of its consumer legislation. The timing of this review and when its conclusions will appear is uncertain.

13. In line with the principles of 'better regulation', Government believes that costs of providing financial protection should be kept to the minimum possible consistent with the legal requirements for financial protection. Licence holders have argued that providing financial protection through bonding places a significant financial burden on them a burden that is not faced by some of their competitors in the air holiday market for example low cost airlines.

14. Informal consultation with tour operators and other interested parties by CAA[9] indicated that it could be possible to reduce the overall costs associated with compliance with the financial protection requirements by moving to a per passenger contribution, referred to as the APC, paid by ATOL holders into the ATTF.

15. The Government believes that ATOL holders should meet the full costs of providing the financial protection required by EU and domestic legislation for those booking air package holidays, including costs met by the ATTF since the fund has been in deficit. In the absence of intervention, the ATTF deficit would increase with no prospect of it being repaid by industry. The deficit would eventually have to be borne by the taxpayer.

[6] Air Travel Trust Report and Accounts 2006/07
[7] CAA Analysis
[8] ATOL Business Issue 29
[9] CAP 765: Consultation on the Replenishment of the Air Travel Trust Fund and the Proposed Reform of ATOL Bonding

16. The Government also sees it as important that consumers should be provided with clear information that their package holiday is covered by the ATOL system, to help allow consumers to make better informed decisions. Reforming ATOL bonding has the potential to help achieve this, alongside other measures.

Section 3: Consultation

Government and Regulator (CAA)

17. There have been extensive discussions about the potential reform of ATOL bonding between the CAA and Department for Transport. Other Government Departments that have been involved in these discussions are HM Treasury and the Department for Business Enterprise and Regulatory Reform, including the Better Regulation Executive..

Industry and stakeholder consultation

18. A pre-consultation exercise with tour operators was undertaken in late 2005. The CAA invited comments from industry and other stakeholders on the detail to be included in the informal consultation, and met a range of interested parties to discuss the proposals.
19. In early 2006, as part of its remit to consider reform of ATOL bonding, CAA carried out an informal written consultation exercise with existing and potential ATOL holders and other interested stakeholders, including the main trade bodies - Association of British Travel Agents (ABTA), Federation of Tour Operators (FTO) and Association of Independent Tour Operators (AiTO), Association of ATOL Companies (AAC)) and the Travel Trust Association (TTA) Firms that supply bonds to ATOL holders and their representative bodies were also consulted, including the Association of British Insurers (ABI). The consultation document 'CAP 765 Consultation on the replenishment of the Air Travel Trust Fund and Proposed reform of ATOL bonding' is available on the CAA website[10]. 85 responses were received to the informal consultation. These showed a large amount of support for an approach based on the APC, with a value of £1.
20. A full stakeholder consultation on options for reform, draft regulations and a partial RIA ran from 2 April 2007 to 29 June 2007, involving all relevant stakeholders to those consulted informally in 2006. The consultation document is on DfT's and CAA's websites. As part of the consultation, CAA and DfT met the main travel trade bodies and ABI. CAA also met the largest individual ATOL holders and organised consultation events for medium sized companies.
21. A total of 88 responses were received, and a summary of responses is available on DfT and CAA's websites. The responses have been used to inform this RIA.

Section 4: Options

22. Three options have been identified:
    - <u>Option 1: ' do nothing'</u> - ATOL bonding remains in place and no steps are taken to replenish the ATTF deficit which would continue to be supported by a Government guarantee. This deficit would continue to grow and ultimately be charged to the taxpayer.

[10] www.caa.org.uk

- Option 2: 'Replenish ATTF only' - ATOL bonding remains in its current form but new regulations would be put in place to allow the CAA to impose a charge on ATOL holders to replenish the ATTF deficit and provide a surplus to help meet future calls on the fund. New regulations would give the CAA the necessary powers to do this. ATOL holders would therefore provide a bond and make a levy payment.
- Option 3: ' Introduce ATOL Protection Contribution (APC)' - ATOL bonding is replaced by a contribution to a pooled fund (the ATTF) payable by ATOL holders. New regulations would give the CAA the necessary powers to do this. The contribution would be expressed as an amount per ATOL passenger calculated on bookings taken. The APC would be collected by the CAA on behalf of the ATTF, and would be used to meet the cost of future failures and also to replenish the current deficit. Commercially provided insurance and a revolving credit facility would provide the ATTF with further liquidity to meet 'low probability high impact' failures such as that of a major tour operator. New licence holders would also be required to hold a bond for 4 years in addition to paying the APC. Past data shows that new licence holders are more likely to fail than established ones - the proposed arrangements are therefore intended to protect the ATTF. **Following the results of the 2007 consultation and consideration of all the responses, Government has decided that this option should be introduced.**
- Alternative options. The 2007 consultation also invited respondents to propose other options that met the objectives of reducing the burden on tour operators, replenishing the ATTF and maintaining the same level of financial protection for consumers. Such options would also have support from tour operators who would be regulated by them.

Section 5: Costs and benefits

Sectors and groups affected

23. The industry sector directly affected by all the options is the 2,500 UK businesses that hold an ATOL. Together, they provided some 26 million ATOL protected products in 2006, with a combined turnover of £14 billion. The sector is dominated by 2 large recently formed groups, TUI & First Choice and Thomas Cook & My Travel, reducing the previous 'big 4' companies to a 'big 2'. Accounting for over 40% of ATOL protected holidays, these are very large vertically integrated companies that operate their own airlines as well as retailing and organising package holidays. At the other end of the spectrum, there are a substantial number of small businesses supplying ATOL protected holidays. Some 1,300 businesses are licensed to provide fewer than 500 holidays per annum each[11].

24. Other businesses that would be directly affected by option 3 are those that currently supply ATOL holders with the bonds required as a condition of their licence. These are insurance companies and banks. Banks currently provide 69% of bonding by value and the insurance market provide the remaining 31%, although these proportions have varied over the past 10 years. 88 banks are currently active in the market as are 15 insurance companies. Their representative bodies, the British Bankers' Association (BBA) and the Association of British Insurers (ABI), have been included in the discussions and consultations carried out to date. The total value of ATOL bonds is in the region of £2 billion.

25. The CAA has franchise agreements in place with four organisations where the costs of ATOL holder failure are met, either in part or in full, by that organisation, so franchise members are not required to provide a bond. This provides an alternative way of meeting financial protection requirements from small ATOL holders. The most significant of these is the Travel Trust Association (TTA), which has more than 100 members who currently hold an ATOL under their agreement. These arrangements will continue. CAA has reviewed the other franchises agreements in light of the decision to implement option 3, and made proposals for how these franchises can continue and expand when an APC is introduced, which franchise providers are considering. This affects the 57 ATOL holders (2% of total number) currently licensed under these arrangements. See further discussion in the Summary and Recommendation section below.

26. The CAA operates the ATOL system through its Consumer Protection Group and would be required to collect the APC from ATOL holders under 3, and make the wider changes to the ATOL bonding system under option Government, as provider of the guarantee of the ATTF deficit, is affected by all the options.

27. The financial protection provided to consumers will not change under any of the options - these requirements are set out in EU and domestic legislation. However the introduction of an APC could make consumers more aware of the ATOL system and the protection it provides.

28. These proposals do not have any race equality impacts.

Analysis of costs and benefits

- Option 1: - Do nothing

[11] ATOL Business 29

29. The costs to industry and benefits to consumers of the 'do nothing' option are those of the ATOL system as it currently stands (see Background section above).

30. The bonds provided are intended to cover the costs of failure in low season; the time when failures traditionally occur. The ATTF is, however, for a variety of reasons, meeting an increasing proportion of these costs. Over the past 5 years, the ATTF, which was established as a back-up fund only, has met an average of 25% of failure expenditure, although the share was 56% in 2005/06.

31. The Government provides a guarantee to support the deficit of the ATTF. There is no mechanism under this option to levy ATOL holders to replenish the ATTF, so Government would have to continue guaranteeing the deficit, which would be expected to grow over time. Ultimately these costs would be borne by the taxpayer.

32. There is little or no scope for simplification under this option and it does not address better regulation concerns identified above. No responses to the 2007 consultation supported the continuation of the current arrangements, a number commenting that the 'status quo' was unviable.

- Option 2: - Replenish ATTF only

33. Under this option new regulations would be introduced allowing ATOL holders to be levied to replenish the ATTF deficit, and to establish a surplus to help meet future calls on the ATTF. The levy would aim to pay off the deficit within 3 years and thereafter to build up a fund to meet future failure costs, potentially up to £90m[12]. This could be achieved by having a £1 per passenger levy in place for around 3 or 4 years. ATOL holders would therefore meet these costs through a per passenger levy or charge.

34. Other costs on ATOL holders would remain as in option 1, including the cost of providing bonds and otherwise complying with the requirements of the ATOL system. This would therefore increase the direct burden on ATOL holders. The compliance costs are also likely to increase under this option, as both the bonds and the per passenger payments will need to be administered by the ATOL holder and the CAA.

35. The costs that would fall ultimately on taxpayers in option 1 as a consequence of a continuing government guarantee of the ATTF would, under this option, be met by ATOL holders. Government believes that industry should meet the full costs of its regulation.

36. Benefits to passengers under option 2 are the same as for option 1.

37. Responses to the 2007 consultation showed very little support for this option. Of the 64 respondents who answered a question about it, 61 (95%) were not in favour. ABTA argued that it would put ATOL holders at a very significant competitive disadvantage to other travel providers.

38. However, the ABI believed that this option would be an acceptable option for the future, but also suggested other alternatives, which are discussed further below.

- Option 3: - Introduce ATOL Protection Contribution (APC)

39. The APC would replace ATOL bonding. The 2007 consultation was on the basis that the contribution would be initially set at £1 per passenger, following detailed financial and econometric analysis carried out by CAA and a leading professional services firm. The

[12] CAP 765

modelling showed that with a £1 APC, the ATTF deficit could be repaid within 3 years and the ATTF would be able to meet failure costs from its surplus going forward. An insurance policy would provide liquidity needed in the event of the failure of one of the Big 2 operators. The premium for this policy would be met from the income provided by the APC. As for option 2, new regulations under the Civil Aviation Act 2006 are required to allow CAA to levy the APC.

Direct costs

40. The £1 APC can be compared with the estimated direct cost of bonding per passenger discussed above in para 7. Estimates from ATOL holders in response to the 2007 consultation show that this ranges from an average of £2.50 for small and medium sized companies to around £1 for large ATOL holders. ABI estimate a range for insurance based bonds of 80p to £1.25 per passenger, broadly consistent with estimates of large ATOL holders. The £1 APC would therefore have little overall effect on the direct cost to large tour operators, but would substantially benefit smaller and medium sized ones.

41. Under option 3, new entrants, would be required to provide a bond in addition to paying the APC. 80% of new entrants hold a Small Business ATOL (SBA), licensing them for up to 500 bookings p.a. They would have to provide bonds of up to £40,000 for the first 4 years they held a licence, as well as paying the APC. The other 20% of new entrants would be required to provide a bond of up to 15% of their turnover. ABI have argued that under option 3 bond costs would increase from current levels due to a smaller market and changed risk profile. The estimated cost of these bonds to ATOL holders is £1m p.a. Further discussion of the costs to new entrants under option 2 and 3 is in the Competition Assessment section below.

42. The direct costs of bonding and the APC are summarised below, based on 26.3 million passengers carried in 2006. Large ATOL holders represent 55% of these passengers, based on those carried by FTO members.

Table 1 Comparison of Bonding and APC direct costs

	Bonding	**£1 APC**
Large ATOL holders	£14.5m	£14.5m
Small ATOL holders	£29.6m	£11.8m
New entrant bonds		£1.0m
Total	£44.1m	£27.3m

Note: These figures do not take account of ATOL holders who are franchise members, given their relatively small number

Effects on bond providers

43. Bonding and insurance would continue to be a part of Option 3, through the bonds new entrants would be required to provide and the proposed insurance policy to cover refund and repatriation costs in the unlikely event of a major tour operator failing.

44. However the market for bonds would be considerably smaller than under option 2, which would affect the income of firms that currently provide bonds to ATOL holders. As

mentioned above, it is estimated that ATOL bonds generate gross income of around £44m p.a. for bond obligors. Bond obligors would 'save' £4m currently paid out when bonds are called, so the loss of net income would be around £40m p.a. This would be offset to a limited degree by income from bonds new entrant ATOL holders would be required to provide and, for the insurance market, premiums arising from the policy protecting against major operator failure.

45. ABI have argued that option 3 could mean some of their members, in particular those specialising in this market, facing such a loss of income that they may close. ABI also have a number of objections in principle to option 3, as discussed further below.

<u>Compliance costs</u>

46. ATOL holders have also said they face compliance costs associated with bonding that would be reduced by a move to an APC. AiTO estimated that the APC would reduce total ATOL compliance costs by 50% compared to bonding, a saving of £710,000 p.a. in total for the 142 companies it represents. In response to the 2007 consultation, larger ATOL holders did not quantify compliance cost savings. But a number said that such savings would accrue to them. For example, AAC pointed to benefits of reducing administration cost at licence renewal and in providing quarterly returns. A very large ATOL holder argued that the APC had the potential to reduce compliance costs. A large ATOL holder pointed out that the APC was a more practical and simpler approach as it was on a ‘pay as you go’ basis.

47. Assuming that the reduction in compliance costs estimated by AiTO applied to all ATOL holders but the largest 50, this represents an annual saving of £12.5m.

<u>Other costs</u>

48. A further potential benefit of moving away from bonding would be that ATOL holders using bonds provided by banks would free up capacity on their balance sheets, part of which could be used for investment purposes or to strengthen their financial position. This was reflected by in a number of consultation responses. A very large ATOL holder noted that its bonding facility was £280m – replacing bonding with an APC would reduce financing fees and/or free up considerable borrowing facilities. Similar points were also made by two other ATOL holders.

49. Bonding requirements are based on an ATOL holder’s projected business. If the amount of business carried out is likely to exceed the initial projections, an ATOL holder must vary the licence and obtain additional bonding. The extra cost of obtaining this additional bonding, both in terms of financial cost and management time, creates an incentive for firms to overestimate passenger figures at their annual renewal and therefore ‘over bond’. CAA estimate that in recent years licence holders have overbonded by between 7% and 11% per annum. Moving to an APC paid on actual bookings would remove this cost.

<u>CAA costs</u>

50. ATOL holders would continue to be required to meet CAA's costs of administering the ATOL system, including the cost of collecting the APC and administering the fund. The CAA does not expect these costs to change immediately as a consequence of introducing an APC and so they will be broadly similar under all 3 options at around £6m p.a. (although the nature of the activities undertaken by CAA will change to a greater level of financial monitoring with less administrative work).

51. The £1 APC would also be used to pay off the ATTF deficit within 3 years with the industry therefore meeting these costs, as under option 2. Over time, this would remove the need for

the current Government guarantee and the contingent liability it represents. CAA and Government would review the level of the APC once the ATTF had reached a sustainable level.

Consumer Information

52. It is proposed that ATOL holders licence conditions will be changed to require them to include a statement on invoices and other material that a holiday is protected by the ATOL system. This provides an opportunity to improve consumer awareness by providing better information about whether their holiday is ATOL protected or not. Some ATOL holders also may decide to show the APC as a separate item on invoices to help reinforce this point, although this is a commercial decision for each ATOL holder.

Consultation responses

53. Option 3 received substantial support in the 2007 consultation. 74 respondents answered the question about whether they supported the £1 APC to replace bonding. Of these 70 (95%) did, while 4 opposed it. Those in favour included all ATOL holder representative bodies, major tour operators and a range of medium and small sized companies.

54. By way of example, one large ATOL holder said ' we support the reform proposed…as set out in option 3 and believe this will create a clearer and less burdensome form of regulation….' Another ATOL holder said 'In our view the £1 per passenger flat rate is a very good way forward and will hopefully simplify all associated administration. 'These are reflective of a number of other responses.

55. The response from ABI was one of those that did not support option 3. ABI raised a number of concerns about the APC including:

   - that it is insufficiently risk based and removes private sector disciplines leading to a larger number of failures with higher costs
   - that it reduces flexibility for ATOL holders to meet their obligations
   - that a £1 APC is too low and would not be able to meet failure costs without recourse to further Government support.

   These issues are discussed further below in the Summary and Recommendations section.

- *Alternative options*

59. 14 responses to the 2007 consultation suggested alternative options. The vast majority of these proposed that Government reconsider extending the APC and financial protection to all scheduled airline ticket sales. The Department previously rejected this option in 2005 as it went beyond the requirements of the PTD and was disproportionate to the risk of a scheduled airline becoming insolvent.

60. ABI's response suggested an alternative would be a 'compliance menu' approach, allowing ATOL holders to choose how they met the obligations to provide financial protection, provided these were approved by CAA as regulator. This approach has parallels to that used for non-air package holidays. The choices available could include bonds that would cover all potential failure costs without recourse to the ATTF, insurance cover to meet failure costs in excess of bonds and the extension of the current franchise arrangements to larger ATOL holders. These options have not been discussed with tour operators, so it is not possible to assess the extent to which tour operators support them, although as noted above consultation

responses were strongly in favour of option 3 which did not involve bonding as the primary means of providing financial protection.

61. No precise costings were provided for these options, but ABI estimated that bond premiums may need to be 27% higher than at present in order to avoid recourse to the ATTF assuming separate arrangements to provide for major failures.

62. ABI also proposed a separate levy in addition to the compliance menu to repay the ATTF deficit, estimated to be 30p per passenger for 3 years, or that Government write-off the deficit. Consultation responses from tour operators were strongly opposed to an additional levy which is part of Option 2 above. Government believes that tour operators should repay the ATTF deficit, not tax payers.

Social and environmental effects

63. Social and environmental costs and benefits of the options are very likely to be identical under all three options and have not been assessed in detail. Given the additional costs option 2 imposes, tour operators may have had a greater incentive to rearrange their business to sell more holiday components (rather than packages) that do not have to comply with EU and UK legislation requiring financial and other protections for consumers. This may give rise to consumer detriment.

Section 6: Small Firms Impact Test

64. A significant share of businesses that hold an ATOL are likely to be small businesses and so affected by these reforms.

65. Part of the current ATOL scheme is a Small Business ATOL (SBA) available to businesses selling fewer than 500 holidays per annum. This provides a simpler, less costly way of obtaining an ATOL for small firms without, for example, the need to pass a financial fitness test. SBA holders are currently required to hold bonds, as per other ATOL holders.

66. All ATOL holders were included in the 2007 consultation, including the 1,300 holding an SBA. Replies were received from 35 SBAs, 40% of total responses. Many of these responses suggested that the cost of bonding was significantly higher for SBA holders than for larger businesses.

67. Small firms are likely to benefit from the move to APC because, as well as experiencing the high cost of bonding per passenger, the management of such firms are more likely to have personal assets held as security against bonds. Removing bonds would remove this personal liability (although bonding would still be required for new SBA holders). Small firms will also benefit from the reduced compliance costs, as the time spent by management on bonding related administration is proportionately greater to smaller companies.

Section 7: Competition Assessment

68. The relevant market for the competition assessment is that for package holidays including a flight which are offered for sale within the UK. Businesses operating within this market are legally required to hold an ATOL and so will be directly affected by the reforms.

69. As noted above, there are 2,500 ATOL holders. The 'big 2' groups, TUI & First Choice and Thomas Cook & MyTravel account for 46% of holidays licensed under the ATOL scheme in 2006.. The top 10 groups account for 62% of all licensed holidays. At the other end of the size spectrum, 1,200 firms hold SBAs and are licensed to provide up to 500 holidays per annum each.

70. ATOL holders are also in competition with other firms providing flights (i.e. scheduled airlines), holiday accommodation and other travel services abroad. It is estimated that these accounted for 40% (18m) of UK originating leisure passengers in 2006, compared to 57 % (26m) for ATOL holders.

71. Under options 1 and 2, the value of bonds required is based on a percentage of a firm's turnover and are typically set between 10% and 15%. Generally the larger the company, the lower the risk of failure and the percentage required, and hence the lower the actual per passenger cost of bonding. Firms offering higher price holidays, for example to long haul destinations, would have a higher turnover and so expect to pay higher bonding costs than a firm offering the same number of lower priced holidays.

72. With the introduction of an APC of £1 under option 3, financial protection costs would be in direct proportion to passenger bookings. As Table 1 shows, compared to option 1, this would generally mean lower costs per passenger for small and medium operators while having less effect on large companies. It would also mean financial protection costs for businesses providing higher priced holidays would fall relative to those offering the same number of budget holidays. As a whole, ATOL holders should see their costs fall under this option.

73. These relative changes in costs should be small in comparison to the total cost base of a business. It is not anticipated that on their own they will lead to a significant change in the nature and structure of the market, although they may allow smaller ATOL holders to compete more equally with larger firms .

<u>New entrants</u>

74. Some consultation responses raised concerns that the proposals for new entrant ATOL holders under option 3 were unnecessary barriers to entry that could protect existing ATOL holders from competition. This is also an important issue for Government in relation to the principles of Better Regulation.

75. 80% of new entrants to ATOL are small businesses, licensed under the SBA scheme as discussed above. The majority of other new entrants are operators applying for licences of less than 1,000 passengers. CAA expects the size profile of new entrants to remain broadly unchanged in the future. Currently there are some 250 new entrants each year.

76. Under option 3, it is proposed to include slightly different arrangements for new entrants compared to existing ATOL holders. In addition to paying the APC, new entrants will also be required to provide a bond to the CAA for up to 4 years. SBA new entrants will provide a flat rate bond of £40,000 on entry to ATOL, rather than a bond calculated as a percentage of annual licensed turnover. Other new entrants will be required to provide a bond of up to 15% of their turnover. The aim of this is to protect the ATTF against the costs of new entrant firms failing, given that such firms are more at risk of failure than established ATOL holders. Without such arrangements, costs to existing ATOL holders might be higher.

77. The value of the bond would be reduced over the first four years as the new entrant became established, and then would be withdrawn in line with the concept of earned autonomy. New entrant ATOL holders already in the system (those which have been granted a licence in the 3 years prior to the introduction of the APC) would also be required to provide a bond in addition to paying the APC.

78. New entrant bonds are not set at a level that would meet the entire potential costs of failure under all circumstances. To do so would impose a significantly higher cost on new entrants. If, however, the bond is insufficient, the ATTF would meet the additional costs. It is therefore justifiable to require new entrants to contribute towards both removing the existing deficit on the ATTF and building up a surplus to which their customers would have access in the event of failure.

79. The CAA has carried out an analysis of the costs to an average new entrant under options 2 and 3. The results are summarised in the table below, with full details in annex A

Table 2: Estimated costs to new entrant SBA holders

	Year 1	**Year 2**	**Year 3**	**Year 4**	**Year 5 on**
Option 2	£1,890	£1,485	£1,352	£1,093	£968
Option 3	£2,340	£1,435	£1,185	£935	£685
Difference	£450	-£50	-£167	-£158	-£283

80. As can be seen, new entrant costs are only greater under option 3 in year 1, where an average new entrant would face an additional cost of £450 relative to option 2. This is partly because the £40,000 bond required in year 1 is slighter higher than under the current arrangements where bonds are based on 15% of turnover - the current average bond for new entrants is £32,000. From year 5 onwards option 3 is £280 p.a. less costly to former new entrants than option 2.

81. The additional cost in year 1 needs to be seen against an average new entrant's turnover of around £220,000 and the otherwise low start up costs to become an ATOL holder. Tour operators can start up with little more than a computer in their home yet sell highly priced holiday products using aircraft and accommodation owned by others.

82. There are also simplification benefits from introducing the APC that will benefit new entrants, along with other ATOL holders. The great majority of new entrants are SBAs who will only be required to report annually, rather than quarterly as at present. There will also be more flexible licence terms for SBAs, with no requirements to vary a licence unless the 500 passenger limit is likely to be breached. The proposed franchise arrangements discussed below are also available for new entrants and would mean they did not have to provide a bond as a condition of holding an ATOL. As regards quantifying these benefits, AiTO estimated simplification savings of £5,000 p.a. per company from moving to an APC compared to bonding. As bonding will remain for new entrants, simplification benefits for these companies may be less than this, but even if they were only 10%, £500, this would cover the additional cost of the APC option to new entrants in year 1.

83. Given this, the proposals for new entrants under option 3 are a proportionate way of protecting the ATTF from new entrant failures while not erecting undue barriers to entry.

84. The nature of the options proposed should not inhibit any technological developments in the industry or stop firms providing any products that they otherwise would do.

Section 8: Enforcement, sanctions and monitoring

85. A statutory ATOL system has been in place for over 30 years, administered by the CAA. Option 3 is within the ATOL system, which will continue to be monitored and enforced, where appropriate, by CAA using well established processes in line with its published enforcement policy. Sanctions available for non-compliance include withdrawing or not renewing a licence and imposing additional conditions in a licence. If a firm is found to be in breach of the ATOL regulations by trading without a licence, the CAA will take action and can ultimately prosecute, subject to Crown Prosecution Service requirements.

Section 9: Implementation and delivery plan

86. New Regulations under the Civil Aviation Act 2006 are required to implement option 3. A draft of the regulations was included in the 2007 consultation and has been revised to reflect comments received and changes to the detail of the policy option to be implemented. The revised regulations are to be laid before Parliament in autumn 2007 and will take effect in time to allow CAA to finalise arrangement for when the reforms themselves are introduced from 1 April 2008. Also in autumn 2007, CAA will conduct a further consultation with ATOL holders on detailed changes to licence conditions as a consequence of the reforms. These arrangements should ensure ATOL holders and others affected should have adequate time to prepare for the reforms being introduced.

Section 10: Post Implementation Review

87. In the consultation document, the Department and CAA said that the functioning and level of the APC, if introduced, would be reviewed once the ATTF had become stable and the deficit had been paid off, probably between 3 to 5 years. This could result in the APC remaining at £1, or being reduced or increased, depending on the circumstances at the time. This review would also consider any other options that had been developed to allow ATOL holder's alternative ways of meeting their obligations to provide financial protection.

Section 11 Summary and Recommendation

88. The table below summarises the costs, and benefits, of the options from the analysis in this RIA.

Table 3: Summary of costs of options for one year

	Option 1 Status quo	**Option 2** Bonds and new levy	**Option 3** APC	**Option 4** Alternatives
Quantifiable Costs (over 12 months, based on 26.3 million passengers protected)				
Bond costs	£44.1m	£44.1m	£1.0m[1]	
Levy[2]		£26.3m		
APC			£26.3m	
Compliance costs[3]	£25m	£25m	£12.5m	
CAA costs[4]	£6m	£6m	£6m	

Total:	**£75.1m**	**£101.4m**	**£45.8m**	**Not quantified**
Non-Quantifiable Benefits				
Reduction in overbonding				
Balance sheet effects				
Increased clarity for consumers				
Financial protection	Same for all options	Same for all options	Same for all options	Same for all options
Environmental and social benefits and costs	Same for all options	Same for all options	Same for all options	Same for all options

1 New Entrants Bonds
2 Based on £1 per passenger
3 Based on AiTO estimated applied to operators excluding the 50 largest. Compliance costs under option 2 are likely to be higher as ATOL holders would have to administer collecting levy as well as bonding. Costs estimates are not available
4 CAA costs likely to be higher given requirement to administer bonds and manage levy payments. Cost estimates are not available.

89. The key benefit to consumers is financial protection in the event of an ATOL holder's insolvency and is the same under all the options, as determined by EU and domestic legislation. The value of this has not been quantified. Separate environmental and social benefits are likely to be small, and not significantly different for each option. They have not been assessed.

90. But the table clearly shows that Option 3, the £1 APC is the least costly option for ATOL holders to provide financial protection by some way. On the basis of analysis carried out by CAA and its advisors as reported in the 2007 consultation paper, Option 3 would also allow the ATTF deficit to be repaid and a surplus established to meet most future failure costs.

91. To support the ATTF, an insurance policy would provide additional liquidity in the unlikely event of a major tour operator failing. The analysis in the 2007 consultation assumed that a low season failure of a Big 4 tour operator would lead to refund and repatriation expenditure of £250m. With the merger of these companies into a Big 2, the cost of a low season failure is expected to increase to £400m. But the likelihood of such a failure becomes even more remote: the purpose of the mergers was to create firms that would be able to be more competitive. Further analysis has shown that the £1 APC would still be sustainable, although the cover, and premium, of the insurance policy for a major failure would increase. The insurance cover is expected to provide additional liquidity of up to £300m in the event of a failure. Further liquidity will be provided from either or both of any surplus in the ATTF and a revolving credit facility being established for this purpose.

92. Table 3 sets out one year costs, including for option 2 the cost of a £1 per passenger levy to repay the ATTF deficit and establish a surplus to meet future calls on the ATTF. The levy would not be required in perpetuity and would be expected to be withdrawn or reduced once the ATTF deficit had been repaid and a surplus established. In its consultation document CAP 765, CAA estimated that the £1 levy would need to be in place for between 3 and 4

years. To take account of this, table 4 below sets out the estimated cost of each of the options over 10 years. It assumes that the £1 per passenger levy in option 2 applies for 3.5 years only, after which it is withdrawn. The £1 APC in option 3 continues unchanged for all 10 years.

Table 4: Summary of costs of options over 10 years

	Option 1 Status quo	**Option 2** Bonds and new levy	**Option 3** APC	**Option 4** Alternatives
10 year total costs (£m)	£751m	£843m	£458m	Not quantified
10 year total costs (£m NPV)	£624m	£710m	£381m	Not quantified

3.5% discount rate used for NPV calculation
Passenger numbers assumed to be 26.3m p.a. for all options

This table shows that over a 10 year period, option 3 remains the one with the lowest quantifiable cost.

<u>Association of British Insurers</u>

93. The figures in tables 3 and 4 reflect costs to ATOL holders. As noted above, moving away from bonding will substantially reduce the income of those providing bonds, by up to £40m p.a. The ABI represents a number of insurance companies providing bonds and did not support the £1 APC. Bank bond providers and their representative bodies were consulted but did not submit responses.

94. For firms whose main business is ATOL bonding, the transition to an APC will be difficult and ABI have said that some may face closure, particularly those that specialise in this market, although further details were not provided in their consultation response. The CAA is aware of one insurance group that earns a significant part of its income from ATOL bonding.

95. ABI made a number of points of principle about the APC option, as summarised above. These included that:

- it is insufficiently risk based and removes private sector disciplines leading to a larger number of failures with higher costs
- it reduces flexibility for ATOL holders to meet their obligations
- a £1 APC is too low and would not be able to meet failure costs without recourse to further Government support

96. The Department and CAA have carefully considered ABI's views and discussed them with ABI. Taking the above points in turn:

Risk

- The Department and CAA's view is that the APC does have a strong risk based element – the requirements for new entrants to obtain bonds and the insurance policy to provide liquidity in the event of a major tour operator failing referred to above are examples of this. CAA is also developing its risk management systems to improve monitoring of firms likely to present most risk to the ATTF. The Department does not therefore believe that the number or cost of ATOL failures will increase under option 3.

Franchises

- The APC will be the principal way in which ATOL holders will meet their obligations to provide financial protection. However, it is intended that franchise arrangements for SBAs will continue and be expanded under the APC so providing choice for ATOL holders licensed for up to 1,000 passengers, close to 70% of the total.

- A difficult issue to decide is whether SBAs in a franchise should be exempt from the £1 per passenger APC, just as they are exempt from buying a bond. CAA has concluded that franchise members should pay the £1 APC; however CAA's licence fees for franchise members will be reduced to offset this partly. The ATTF would meet the costs of repatriating passengers if a franchise member becomes insolvent, so reducing franchise holder's exposure. The reasons for charging them the £1 are:

  a. One of the aims of the APC is consumer awareness that £1 of every package holiday goes to protecting the customer’s money (there is currently real confusion about which trips are ATOL-protected)

  b. Another aim is to pay off the £22m deficit in the ATTF, and it is not fair to the bigger companies if the smaller ones are exempt

  c. If an SBA opts to leave the franchise and come into the main scheme, *or* if it is expelled by the franchise when at risk of insolvency, *or* if the franchise operator ceases, then SBAs would have to be covered by the pooled protection fund paid for by others.

- CAA has already had initial discussions with three franchise providers. Two of these have responded in a positive way, suggesting that it is a reasonable commercial proposition. A franchise alternative should be on offer by April 2008.

- Government will review the APC once the ATTF is stable, expected to be in 3 to 5 years, and at that time will consider if it is appropriate to introduce other options to provide ATOL holders with more choice in how to comply with their obligations.

Government support

- The Department believes that a £1 APC will be sustainable as it has been tested against a range of assumptions; and that once the existing ATTF deficit has been repaid and the fund has stabilised, the Government Guarantee can be withdrawn and no further Government support should be required. The financial model underpinning the analysis of the APC was verified by a professional services firm. Under the proposed new regulations, the option also exists of increasing (or decreasing) the APC above £1 following consultation with ATOL holders amongst others.

Recommendation

97. As noted above, option 3 received overwhelming support in the responses to the 2007 consultation from trade representative bodies and a range of ATOL holders. As tables 3 and 4 above show, it represents the least burden to ATOL holders. It will also allow the ATTF deficit to be repaid within a reasonable time and should help increase clarity to consumers about whether their holiday is financially protected.

98. For these reasons, Ministers have decided that option 3 should be implemented with effect from 1 April 2008. The current arrangements for ATOL bonding will end on that date.

Ministerial declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Jim Fitzpatrick

Minister for Aviation
Date 19th October 2007.

Contact point:

Tom Oscroft
Civial Aviation Division
Department for Transport
76 Marsham Street
London SW1P 4DR
020 7944 5488

tom.oscroft@dft.gsi.gov.uk

Annex

Costs to average new entrant SBA holders under options 2 and 3

Option 2 (£s)	***Year 1***	***Year 2***	***Year 3***	***Year 4***	***Year 5 and onwards***
CAA fees	840	435	435	435	435
Bond	800	800	667	533	533
APC	0	0	0	0	0
ATTF deficit	250	250	250	125	0
Financial test	0	0	0	0	0
Total	**£1,890**	**£1,485**	**£1,352**	**£1,093**	**£968**

Option 3 (£s)	***Year 1***	***Year 2***	***Year 3***	***Year 4***	***Year 5 and onwards***
CAA fees	840	435	435	435	435
Bond	1000	750	500	250	0
APC	500	250	250	250	250
ATTF deficit	0	0	0	0	0
Financial test	0	0	0	0	0
Total	**£2,340**	**£1,435**	**£1,185**	**£935**	**£685**

Notes:

In the top half of the table, based on option 2, it has been assumed that a separate 'top up' levy has been introduced to repay the ATTF deficit and establish a surplus going forward, based on £1 per passenger for 3 years. This is necessary to provide a more meaningful comparison to option 3 where part of the APC will be used to repay the ATTF deficit.

In option 2, year 1 bond costs are based on an average bond of £32,000 based on 15% of turnover, the current SBA new entrant average. Under option 3 year 1 bond costs are based on a fixed bond of £40,000.

Under option 3, all SBAs will pay an initial APC of £500 in advance in year 1, For year 2 onwards, it will be based on actual bookings in arrears.. The £500 is refundable if the SBA leaves the system.