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Treasury Committee

Are you covered? Travel insurance and its regulation

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Summary

Holidaymakers are at risk if they go abroad without travel insurance or without adequate cover from the policy that they have chosen. United Kingdom citizens undertake over 60 million visits abroad each year, of which around two-thirds are holidays. It is clear that significant numbers of those travellers are not covered in the way they need to be for accidents and other problems while on holiday.

Around 20 million consumers purchase travel insurance each year. We examine the different ways in which such travel insurance is sold and regulated. We also look at the changing regulatory environment for general insurance as a whole, welcoming trends in the approach to regulation by the Financial Services Authority.

We conclude that there is significant evidence of consumer detriment in the travel insurance market. Consumers are at risk of being sold policies which do not meet their needs. There is insufficient awareness of exclusions in areas such as terrorist acts and pre-existing medical conditions including pregnancy; we are particularly concerned at evidence that around 10 million United Kingdom holidaymakers in 2006 would not have been covered for medical expenses in the event of terrorist incidents. All too often, exclusions are buried in the small print of policies. Holidaymakers are risking damage to their health or considerable financial loss if they require treatment while abroad or repatriation to the United Kingdom.

Overcoming this consumer detriment is a challenge for the insurance industry, for all those who sell travel insurance and for those who regulate them. They must work together with the Government to develop insurance policies that are summarised in plain English, that provide clear and prominent information on exclusions and that are promoted in such a way as to maximise the number of holidaymakers with proper coverage through travel insurance.

In the context of meeting the challenges that face the travel insurance industry and those who sell travel insurance, we observe that there is evidence to suggest that problems in the sales process are likely to be accentuated when sales take place away from the professional regulated insurance environment through an intermediary such as a travel agent (“bundled” travel insurance). We see merit in the introduction of a coherent and unified system of statutory regulation for the travel insurance market and we believe that the FSA is best-placed to deliver such a system. If the FSA were to assume these additional responsibilities, it would need to ensure that regulation across the travel insurance market was consistent, principles-based and risk-based. We recommend that, if the Government is satisfied that the FSA can deliver regulation that meets these requirements, it extend the scope of FSA insurance regulation to cover the bundled travel insurance market.

1 Introduction

Travel insurance and its regulation

1. Effective travel insurance cover is essential for the well-being of people travelling abroad. Around 42 million visits abroad on holiday are undertaken by people from the United Kingdom each year. Some 20 million consumers purchase travel insurance each year, and around half of those purchases are made by people at the time they book their package holiday. Some people who suffer accidents or other problems while abroad and claim on their insurance policies find that they are not covered for the circumstances that have arisen. Some such difficulties may arise from the way in which travel insurance is sold. The sales process and the way in which it is regulated depends upon the form of travel insurance purchased. Some travel insurance is sold by intermediaries such as travel agents alongside a package holiday—“bundled” travel insurance—while other policies are sold directly by insurance companies—“standalone” travel insurance. When travel insurance is sold as an unbundled product, it is subject to regulation by the Financial Services Authority (FSA) in the same way as most other insurance products. When travel insurance is sold by an intermediary along with other products, it is not subject to such regulation.

2. Is there evidence of consumer detriment in the travel insurance market? Does the variation in the forms of regulation affect the provision of service to the customer and the extent of detriment? Are there ways in which the regulatory and other measures could improve the sales process for travel insurance to the benefit of consumers? These are the issues which the current Report considers.

Background

3. Under the 2002 Insurance Mediation Directive (IMD), the Government was required to introduce a new regulatory framework for general insurance regulation.¹ In October 2002, the Treasury published a consultation document, *Regulating Insurance Mediation*, which invited views on whether travel insurance ought to be brought within the new regulatory framework. In June 2003, the Treasury reported that its consultation on general insurance regulation had found no evidence of “systematic mis-selling of travel insurance sold as part of a package”. Consequently, when the FSA assumed responsibility for general insurance regulation in January 2005, bundled travel insurance products remained outside the scope of FSA regulation. In announcing its decision in June 2003, the Government indicated that it would undertake a further review of the market in 2007. In 4 August 2006, responding to what the Treasury characterised as “growing concerns from consumer groups and sections of the industry that the [travel insurance] market is not working as well as it could do”, Mr Ed Balls MP, the Economic Secretary to the Treasury, announced that he would be launching a review into the selling of travel insurance sold alongside a holiday.²

1 Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation

2 HM Treasury, *Travel insurance review: Call for evidence*, November 2006, paras 3.21–3.22

Our work

4. In October 2006, as part of our continuing scrutiny of the work of the FSA, we took evidence from consumer groups, the Association of British Insurers and the FSA itself on the FSA's Annual Report for 2005–06. The FSA's work in relation to the regulation of general insurance was one of the areas on which we decided to focus.³ The FSA is currently undertaking a review of the effectiveness of its general insurance regulatory regime. This review is due to report in the first quarter of 2007 and we expect to examine the operation of the regime further following that review. However, following our evidence, we decided that early attention could usefully be paid to the scope of FSA insurance regulation and we announced an inquiry on that subject on 7 November 2006.⁴

5. On 23 November 2006, we heard oral evidence from the Financial Services Consumer Panel, HolidayTravelWatch (HTW), the Association of British Travel Agents (ABTA)—which represents 1,620 tour operators and travel agents, covering 80% of the package travel market by value—the Office of Fair Trading (OFT), and the Economic Secretary to the Treasury. We also received a range of written evidence which is published, together with the oral evidence, in Volume II of this Report. We are grateful to all those who contributed to our inquiry.

6. Our inquiry on the scope of FSA insurance regulation examined two main topics—the regulation of travel insurance and the regulation of extended warranties. In the latter area we found a confusing patchwork of different regulatory regimes: extended warranties are either FSA-regulated (most notably in the motor industry sector); regulated through a specific statutory regime (in the case of electrical goods); or not subject to sector-specific regulation. We found the evidence on the impact of these differing regulatory regimes incomplete. Further information on the operation and regulation of these markets is urgently needed, and some evidence is likely to emerge in the first half of 2007. In the absence of such evidence, we have decided to concentrate in this Report on travel insurance, although we expect that the evidence we are now publishing will assist with further consideration of public policy relating to extended warranties, and we may return to the topic in the future.

3 Treasury Committee, Oral and Written evidence, *FSA Annual Report Scrutiny*, HC (2005–06) 1594–i & ii

4 For terms of reference for the inquiry, see Treasury Committee press notice No. 64 of Session 2005–06, "Treasury Committee announces new inquiry into the scope of FSA insurance regulation", available at http://www.parliament.uk/parliamentary_committees/treasury_committee/

2 The regulatory context

The costs and benefits of regulation

7. Regulation brings with it both benefits and costs. As the Economic Secretary to the Treasury acknowledged, “the challenge is in all these areas striking the right regulatory balance between protecting consumers without inhibiting or stifling innovation”.⁵ These objectives have been recognised by the Better Regulation Commission, whose terms of reference are to advise the Government on action to “reduce unnecessary regulatory and administrative burdens; and ensure that regulation and its enforcement are proportionate, accountable, consistent, transparent and targeted”.⁶

8. The ABI has claimed that general insurance regulation costs customers nearly £400 million net per annum.⁷ More specifically, in the context of travel insurance sold by insurance companies rather than intermediaries and thus subject to regulation, Zurich Finance suggested that insurance regulation costs holidaymakers an “estimated £2.50 added per policy sold in the UK”.⁸

9. Although regulation of “standalone” travel insurance products brings with it a cost to the insurer and thus ultimately to the consumer, it also brings advantages. According to Mr Patrick Snowball, Chief Executive of Norwich Union Insurance, regulation brings about “greater transparency ... and consistency of authorisation and enforcement”.⁹ FSA regulation also provides to customers of authorised firms access to the Financial Ombudsman Service (FOS) in the case of a dispute with an authorised firm and to the Financial Services Compensation Scheme in the case of an insolvency of an authorised firm. The FOS provides an independent and impartial complaints service, and the Ombudsman’s decisions are binding on the insurer.¹⁰

10. In the case of “bundled” travel insurance sold through an intermediary, there is no FSA regulation and the consumer who purchased an insurance policy alongside a holiday has no recourse to the FOS if his or her complaint relates to the selling of the policy as opposed to the policy provided by the FSA-authorised insurer.¹¹

The changing approach to regulation

11. The burden of regulation, which has been a repeated source of complaint by insurers and other industries regulated by the FSA, is not static. The FSA is seeking over time to change the way it regulates financial services markets, including the insurance market.

5 Q 151

6 Better Regulation Commission website, www.brc.gov.uk

7 ABI, *The Regulation of General Insurance Sales: One Year on*, March 2006

8 Ev 44, 52

9 Patrick Snowball, Norwich Union, Speech, ‘General Insurance one year on: How can consumers benefit?’, 23 March 2006

10 *Travel insurance review: Call for evidence*, para 3.12

11 *Ibid*, para 3.24

There are signs of change in two areas—a switch of emphasis from rules-based to principles-based regulation and a differentiated and risk-based approach to the regulation of different insurance products.

12. Hitherto, regulation by the FSA has tended to be rules-based, involving regulation via procedure or processes, an approach associated with extensive rulebooks. The FSA is now seeking to place a greater emphasis on principles-based regulation in the insurance field, which involves preferences expressed in terms of outcomes.¹² The ABI has welcomed the FSA's move towards a more principles-based approach.¹³ The Economic Secretary to the Treasury noted that a principles-based regime was “more sophisticated” than a rules-based system, but also thought that a principles-based approach “works better”.¹⁴ He considered that a rules-based regime, while simpler, could become routine and therefore “actually less focused on identifying than addressing risk”.¹⁵

13. Before FSA regulation was first extended to the general insurance market, the FSA consulted on whether the regime should differentiate between lower and higher risk products. Following that consultation, the FSA decided not to bring in a differential approach to different products. Since then, however, evidence has emerged to suggest that different types of consumer detriment arise with different products, so that a different regulatory approach may be appropriate for, say, payment protection insurance or critical illness cover compared with household and motor policies. The FSA indicated in evidence to us that some parts of the insurance industry were now more disposed towards a differentiated approach.¹⁶ The ABI, in oral evidence to us in October, indicated that it was “encouraged” by signs that the FSA was examining the distinctions between different products.¹⁷ The Economic Secretary to the Treasury considered that

there is nothing soft touch at all about a risk-based approach to regulation. Indeed, a proper, proportionate risk-based approach to regulation is lighter in touch where risk is lower but clear, direct and heavy when there are risks which are not being addressed.¹⁸

14. In evidence to us in October 2006, Mr John Tiner, Chief Executive of the FSA, conceded that a number of product areas in the insurance market which, when the IMD was first implemented in January 2005, were subject to the full regulatory requirements of the Financial Services and Markets Act, did not need the “full rigours of the Financial Services and Markets Act”.¹⁹

12 John Tiner, FSA, Speech, “Principles-based regulation and what it means for insurers”, 20 March 2006

13 HC (2005–06) 1594-i & ii, Q 72

14 Q 171

15 Q 173

16 Ev 42–43

17 HC (2005–06) 1594-i & ii, Q 60

18 Q 173

19 HC (2005-06) 1594-i & ii, Q 117

Conclusions

15. In advance of the completion of the FSA's review of its general insurance regulation, there are welcome signs that the overall approach to the regulation of that industry is changing. Insurance regulation should benefit from the FSA's move towards a more principles-based approach to regulation. There also appears to be broad support emerging for greater differentiation in the treatment of different kinds of insurance products through a more risk-based approach to regulation. We expect the FSA to clarify its overall approach in the first quarter of 2007, and in particular to clarify the extent to which it will be applying risk-based regulation to the insurance sector and the implications of adopting a risk-based approach. Developments in the overall approach to regulation form part of the context in which to consider the future treatment of bundled travel insurance.

3 Evidence on consumer detriment

The need for travel insurance

16. Travel insurance is a relatively specialised insurance product, but it is important for many people. The Treasury’s recent call for evidence as part of its review of travel insurance referred to data from the Office for National Statistics showing that there were approximately 64 million visits abroad by United Kingdom citizens in 2004, of which two-thirds (42 million) were holidays. Of these, half (21 million) were package holidays.²⁰

17. The Treasury also observed in the same document that travel insurance is a product designed to protect an individual from a variety of adverse events that could occur while they are on holiday or travelling. The Treasury noted that some 20 million consumers purchased travel insurance each year—making the market worth £670 million in 2006.²¹ Travel insurance sold by tour operators and travel agents (“bundled” travel insurance) comprised just under 50% of all sales of travel insurance in 2004.²²

18. Travel insurance forms part of a wider framework of protection for travellers, including the Civil Aviation Authority’s licensing and regulation of finances and fitness of travel organisers selling flights and package holidays in the United Kingdom through the Air Travel Organisers’ Licensing (ATOL).²³ Structural changes in the air travel market have led to the proportion of leisure air travellers who were ATOL-protected declining from 98% in 1997 to 61% in 2005.²⁴ This trend could be seen as reinforcing the need for travel insurance for all travellers.

Consumer detriment and bundled travel insurance

19. We received some evidence to suggest that the cover offered by bundled travel insurance products and the accompanying sales process led to significant consumer detriment. Mr Frank Brehany of HTW thought that such consumer detriment often arose from inadequate information available to the purchaser of the policy and failures in the assistance provided by those selling policies.²⁵ Recent survey data from Which? suggested that only 19% of travel agents explained what the policy covered and none explained policy exclusions.²⁶ Mr Brehany highlighted the significance of the trend towards exclusions for certain legal expenses, so that

a consumer, for example, is buying a travel insurance [policy] believing that they have legal expense insurance cover, but unfortunately when they come home and look at the exclusions they find they will not be able to use that benefit within the

20 *Travel Insurance Review: Call for evidence*, para 3.1

21 *Ibid*, para 3.2

22 *Ibid*

23 Ev 71

24 Ev 72

25 Qq 4–5

26 Ev 71

policy to be able to pursue any action that they believe they have against the provider of the accommodation or indeed the holiday.²⁷

20. It was suggested that there were particular problems in the sales process for bundled travel insurance in relation to medical cover. Recent Which? survey data showed that almost two thirds of travel agents failed to ask about medical history before selling a policy.²⁸ We heard three examples of the possible consequences of consumers not being made aware of the limitations of medical cover:

- i. Direct Line highlighted pre-existing medical conditions as a specific cause for concern. Around 20% of holidaymakers travel with pre-existing medical conditions, but three-quarters of those surveyed were not asked whether they are awaiting any form of medical investigation or surgery. According to Direct Line, “not being asked about [pre-existing] conditions may mean that holidaymakers are not appropriately covered and are risking damage to their health or considerable financial loss if they require treatment whilst abroad or repatriation to the UK”.²⁹
- ii. Mr Brehany noted that exclusions applying to pregnant women travelling abroad were not well understood by consumers, referring to the example of a woman who required emergency hospital treatment during pregnancy, but was not covered by her travel insurance contract because she had travelled “outside the threshold period stated in her insurance”.³⁰
- iii. Mr Brehany also referred to a tour operator supplying travel insurance under which children under 15 years suffering a permanent physical injury would not be entitled to receive an injury payout.³¹

21. The Economic Secretary to the Treasury noted that “in recent years, there has been increasing concern from consumer groups and sections of the industry that the market is not working as well as it could”.³² The Treasury’s call for evidence as part of its travel insurance review cited the following statement from the Financial Ombudsman Service’s Annual Review for 2005–06:

The policy terms for travel insurance remain complicated, and the sales process is frequently limited—given the low value of the transactions involved. As a result, whilst there is considerable competition on the pricing of travel insurance, there is also widespread misunderstanding on the part of consumers about the scope of the cover they have and the eligibility criteria that apply.³³

27 Q 4

28 Ev 71

29 Ev 39

30 Q 4; Ev 56

31 Ev 63

32 Q 151

33 *Travel insurance review: Call for evidence*, para 3.24

Policy exclusions and industry standards

22. While some problems were felt to relate specifically to the weaknesses of a sale process undertaken by non-insurance professionals, some of the problems with the potential adversely to affect the protection available to consumers appeared to be common both to bundled and standalone travel insurance products. Mr Brehany considered that policy exclusions from four major insurance companies and tour operators effectively “stripped the holidaymaker of any real protection”.³⁴

23. The Economic Secretary to the Treasury expressed particular concern about the impact of exclusions relating to cover for terrorist incidents. He cited ABI data indicating that only half of insurance policies covered medical expenses in the event of a terrorist incident. Around ten million United Kingdom holidaymakers in 2006 would not therefore have been covered for medical expenses in the event of terrorist incidents.³⁵ HTW also referred to policies that excluded medical expenses and personal accident cover in the event of terrorism.³⁶ The Treasury’s call for evidence for its travel insurance review stated that

anecdotal evidence suggest that it is not always clear that people understand what is and, more importantly, what is not covered by their travel insurance policy. Terrorism cover is an example of where individuals may only realise after the event that they may not be covered ... The Government is working closely with the insurance industry to ensure that, where policies do exclude cover for acts of terrorism, these exclusions are signposted to the consumer prior to the purchase of the policy.³⁷

24. As part of its review of its general insurance regime, the FSA is expected to examine whether disclosure documentation is suitable for the consumer’s needs.³⁸ Mr Brehany went further, arguing that consumer understanding would be enhanced by insurance contracts “produced on an industry-wide standard format, with clear explanation of benefits, alongside clear explanations of exclusions”, pointing out that this was in line with practice in certain other insurance markets.³⁹

ABTA’s response and travel without insurance

25. Mr Mike Monk, Head of Finance of ABTA, was sceptical about evidence of consumer detriment in the bundled travel market.⁴⁰ He acknowledged that consumers often spent little time discussing travel insurance packages, but argued that this was unlikely to be changed by fresh regulation because it would not change consumers’ reluctance to read insurance documents.⁴¹ He considered that travel agents were best-placed to sell travel

34 Ev 68

35 Q 151

36 Ev 67

37 *Travel insurance review: Call for evidence*, p 13

38 *Ibid*, para 3.13

39 Ev 70, 63

40 Qq 44–47

41 Q 48

insurance at the time when consumers most needed it, at the same time as they bought their holiday.⁴² ABTA viewed the suggestion of a standard contract as “bizarre”, arguing that it would undermine market differentiation.⁴³

26. Mr Monk argued that any consumer detriment alleged in connection with sales of travel insurance by travel agents ought to be considered in the context of the risk of travel without insurance:

Fourteen per cent of people who go abroad do not take out travel insurance. I would suggest that if they cannot buy at point of sale that number is going to increase and that is going to cause consumer detriment.⁴⁴

The ABI made a similar point:

The Foreign and Commonwealth Office is also rightly concerned that people should travel with adequate protection. It is therefore important that regulation does not put people off from purchasing travel insurance.⁴⁵

42 Q 47

43 Q 65

44 Q 52

45 Ev 32

4 Proposals for reform

The Treasury's consultation and the three options

27. In its call for evidence on bundled travel insurance in November 2006, the Treasury provided three distinct options concerning the potential future regulatory framework for such products:

Option 1: No regulation, in other words maintaining the status quo. Providers of bundled travel insurance would continue to operate in a trading environment without any specific statutory requirement to face regulation.

Option 2: Strengthened industry self-regulation. Under this model, current voluntary industry codes (such as ABTA's Code of Conduct) would be enhanced to meet certain standards to ensure improved consumer protection. Providers of travel insurance would then either have to comply with the code or secure FSA authorisation to continue to sell bundled products.

Option 3: Full FSA conduct of business regulation on similar criteria to those required for providers of general insurance products.⁴⁶

Option 1: No regulation for bundled products, or the status quo

28. Under the first option, companies would not have to act in accordance with any statutory obligation, but might choose voluntary compliance with a code of conduct. The ABTA Code of Conduct is one current example. The stated primary aims of this Code are to ensure that the public receives the best possible service from members; and to maintain and enhance the reputation of, standing and good name of the Association and its Members.⁴⁷ ABTA's representative noted that, to this end, staff involved in sales or advice had to pass an appropriate City and Guilds accredited examination. ABTA had also contacted its members and subsequently fined a minority (16) who had not announced their intention to comply with the examination requirement.⁴⁸ Data from ABTA show that 427 files were referred to their Legal Department for investigation under the Code of Conduct; following investigation, ABTA issued 30 fixed penalty notices in 2005-06.⁴⁹

29. Mr Brehany did not consider that ABTA's Code of Conduct had been of any value in preventing the mis-selling of bundled travel insurance and characterised it as a "toothless tiger".⁵⁰ Mr Monk denied this, and noted that ABTA's Code of Conduct Committee had "levied fines of over £62,000" in 2005-06, and that in the past, ABTA members had

⁴⁶ *Travel insurance review: Call for evidence*, para 3.25

⁴⁷ Code of Conduct, ABTA, 1 September 2006, p 1

⁴⁸ Q 60

⁴⁹ Report on the Code of Conduct of British Travel Agents 2005-06

⁵⁰ Q 7

received fines of “six digits” for serious breaches of the Code.⁵¹ He also told us that, although ABTA did not favour expelling members, three or four expulsions had occurred during the past 12 years.⁵²

30. ABTA withdrew from the OFT Consumer Codes Approval Scheme (CCAS) on 1 September 2006, because the organisation could not offer “an unconditional open-ended guarantee that payments made to ... [ABTA] Members are fully protected.” Ms Paula Macfarlane, ABTA’s Legal Adviser, added that the reason for withdrawal “was not really to do with the Code and how it operates”, but rather due to a “small point about financial protection”.⁵³ The OFT indicated its disappointment with ABTA’s decision to withdraw, noting that while the OFT “has no reason to believe that ABTA’s code is not effective other than that it no longer complies with the CCAS criterion on protection of prepayments”, the OFT did “consider this issue [of financial protection] to be significant”.⁵⁴

Option 2: Strengthened industry self-regulation

31. The second option proposed by the Treasury was for strengthened industry self-regulation. ABI supported an alternative form of regulation similar to that which applied under the Supply of Extended Warranties on Domestic Electrical Goods Order 2005 (the Extended Warranties Order). The ABI described warranty-style regulation as involving:

an industry code of practice (similar to those already in operation); industry training standards to ensure good sales practice; and an extension of the remit of the Financial Ombudsman Service to cover packaged travel insurance sales, allowing customer disputes over sales to be addressed independently.⁵⁵

32. Mr Alan Williams, Director, Markets and Projects—Services, in the OFT, was circumspect when asked to consider the Extended Warranties Order as a model for future regulation of the bundled travel insurance market. He stated that the OFT could not draw any conclusion on the appropriateness of such a model before its study on the effectiveness of the Extended Warranties Order reported in late 2007 or in 2008.⁵⁶ Mr Adam Phillips, Vice-Chair of the Financial Services Consumer Panel, was sceptical about the transferability of the regulatory model of the Extended Warranties Order to the bundled travel insurance sector. For Mr Phillips, an extended warranty was “quite a simple product”, whereas travel insurance was a more complex product. He considered that this meant that the extended warranties model “could not be applied in travel insurance with effect”.⁵⁷

51 Qq 62, 64

52 Q 64

53 Qq 147–148

54 Ev 77

55 Ev 32

56 Q 122

57 Q 20

Option 3: FSA statutory regulation

33. Much of the evidence we received favoured extending statutory regulation to the bundled travel insurance market. Two arguments were common: regulation would create a level playing field; and consumers of travel insurance would be better protected under a statutory regulation regime.⁵⁸ Mr Phillips stated that the central benefits of regulation under the FSA would stem from “principles-based regulation and treating customers fairly”.⁵⁹ Mr Brehany personally supported regulation on the basis that it would lead to greater clarity and transparency for consumers.⁶⁰

34. The submission from Norwich Union supported both arguments. Norwich Union recommended that bundled travel insurance products be FSA-regulated in order to “strengthen consumer protection and consistency across the insurance industry”.⁶¹

35. However, evidence from the insurance industry was not unanimous. For instance, the ABI was against FSA regulation. It considered that the best model for regulation of travel insurance would ensure that “protection is afforded to customers where travel insurance is sold as part of a package”, but would involve a regime similar to that applying in the extended warranties sector for electrical goods rather than FSA regulation.⁶²

36. The travel industry was also concerned at the prospect of regulation by the FSA. Mr Monk of ABTA argued that regulation had the potential to distort the market: while compliance costs might not prove such an issue for larger companies, “for a small family company that has maybe three employees... compliance cost and fees would be a serious issue.”⁶³ ABTA felt that this was particularly the case given “low average net profit margins at only 1%”.⁶⁴

37. In addition to concerns about the potentially adverse effect on the market, witnesses also expressed concern about the degree to which an extension of the FSA’s remit to cover travel insurance might adversely affect the FSA. We have previously discussed with Sir Callum McCarthy, Chairman of the FSA, his concerns about the extension of the FSA’s remit into new areas.⁶⁵ Subsequently, Sir Callum has repeated his view that the regulatory focus of the FSA might be weakened by extension of oversight into new sectors.⁶⁶ The ABI argued in evidence that the inclusion of travel agents within the scope of the FSA regulation would prove a significant extra burden for the FSA, and that local authority trading standards departments might be better placed to perform this regulatory task..⁶⁷

58 Ev 51

59 Q 13

60 Q 15

61 Ev 36

62 Ev 32

63 Q 75

64 Q 69

65 Treasury Committee, Oral and Written Evidence, *The Financial Services Authority*, HC (2005–06) 655–i, Q 2

66 Sir Callum McCarthy, Speech to the Smith Institute, 21 June 2006

67 Ev 32

38. The Economic Secretary to the Treasury agreed that “we must not overload the FSA”, acknowledging that the FSA was already required to oversee a wide range of activities, and accepted that there was a “tension between breadth and the desire to have unified regulation”.⁶⁸ He acknowledged, however, that some of the issues that had to be considered were “much more difficult” when attempting differential regulation of what was essentially the same product sold through different and differently regulated routes as was the case in the travel insurance market.⁶⁹ In conclusion, the Economic Secretary to the Treasury stated that, if the Government did decide to regulate the bundled travel insurance market, then there was a “real question as to whether you would want to try to invent a new regulator as opposed to drawing on the experience of the regulator we already have”.⁷⁰

68 Q 154

69 Q 152

70 Q 155

5 Conclusions

The extent of cover and consumer information

39. The starting point for any approach to the future of travel insurance and its regulation must be the needs of consumers. Around 20 million consumers purchase travel insurance each year. Although our initial focus was on the “bundled” travel insurance market, we have received evidence indicating that there are challenges for the travel insurance industry and those who sell policies in their dealings with consumers which do not relate exclusively to that market. **Consumers are at risk of being sold travel insurance policies which do not meet their needs. We are especially concerned that there is insufficient awareness of exclusions in areas such as terrorist acts and pre-existing medical conditions including pregnancy, and in particular by evidence that around ten million United Kingdom holidaymakers in 2006 would not have been covered for medical expenses in the event of terrorist incidents. Such exclusions reduce the actual level of protection provided to holidaymakers when they are abroad or travelling. This has potentially serious consequences for holidaymakers, who are risking damage to their health or considerable financial loss if they require treatment while abroad or repatriation to the United Kingdom.**

40. **Overcoming this consumer detriment is a challenge for the insurance industry, for all those who sell travel insurance and for those who regulate them.** We have received evidence about problems arising from limited consumer understanding of the complex nature of the travel insurance product—whether sold directly or via an intermediary. All too often, exclusions are buried in the small print of policies. Policies are complex and incomprehensible to the consumer, so that they are unable to understand whether they are covered for relevant circumstances. The problem of exclusions buried in the small print are not unique to travel insurance, but must be addressed as part of any consideration of the future promotion and regulation of travel insurance. **In responding to the challenge, the insurance industry, those who sell travel insurance, the Government and the FSA must work together to develop insurance policies that are summarised in plain English, that provide clear and prominent information on exclusions and that are promoted in such a way as to maximise the number of holidaymakers with proper coverage through travel insurance. Such discussions should include consideration of the benefits of the introduction of a comprehensible standard contract so that consumers can make reasonable assumptions about what will normally be excluded or included in their cover.**

The regulation of bundled travel insurance

41. Although some of the challenges for the travel insurance sector are common to both bundled and standalone products, there is evidence to suggest that the problems in the sales process are likely to be accentuated when sales take place away from the professional regulated insurance environment through an intermediary such as a travel agent. **Given the evidence of the weakness of the sales process within the bundled travel insurance market, we do not believe that there is a convincing case for the maintenance of self-regulation in that market. The fact that the ABTA Code of Conduct is not part of an**

OFT-approved scheme, albeit for reasons unconnected with the sale of travel insurance, does not inspire us with confidence about the prospects of progress through voluntary self-regulation. We see merit in the introduction of a coherent and unified system of statutory regulation for the travel insurance market and we believe that the FSA is best-placed to deliver such a system. The FSA has relevant expertise in the regulation of the sale of financial products. Although we are sensitive to the FSA's understandable concerns about the extension of its remit, we believe that the costs of regulation would be greater if carried out by a new body.

42. If the FSA were to assume these additional responsibilities, it would need to ensure that regulation across the travel insurance market was consistent, principles-based and risk-based. We recommend that, if the Government is satisfied that the FSA can deliver regulation that meets these requirements, it extend the scope of FSA insurance regulation to cover the bundled travel insurance market.

Conclusions and recommendations

The regulatory context

1. In advance of the completion of the FSA's review of its general insurance regulation, there are welcome signs that the overall approach to the regulation of that industry is changing. Insurance regulation should benefit from the FSA's move towards a more principles-based approach to regulation. There also appears to be broad support emerging for greater differentiation in the treatment of different kinds of insurance products through a more risk-based approach to regulation. We expect the FSA to clarify its overall approach in the first quarter of 2007, and in particular to clarify the extent to which it will be applying risk-based regulation to the insurance sector and the implications of adopting a risk-based approach. Developments in the overall approach to regulation form part of the context in which to consider the future treatment of bundled travel insurance. (Paragraph 15)

The extent of cover and consumer information

2. Consumers are at risk of being sold travel insurance policies which do not meet their needs. We are especially concerned that there is insufficient awareness of exclusions in areas such as terrorist acts and pre-existing medical conditions including pregnancy, and in particular by evidence that around ten million United Kingdom holidaymakers in 2006 would not have been covered for medical expenses in the event of terrorist incidents. Such exclusions reduce the actual level of protection provided to holidaymakers when they are abroad or travelling. This has potentially serious consequences for holidaymakers, who are risking damage to their health or considerable financial loss if they require treatment while abroad or repatriation to the United Kingdom. (Paragraph 39)
3. Overcoming this consumer detriment is a challenge for the insurance industry, for all those who sell travel insurance and for those who regulate them. In responding to the challenge, the insurance industry, those who sell travel insurance, the Government and the FSA must work together to develop insurance policies that are summarised in plain English, that provide clear and prominent information on exclusions and that are promoted in such a way as to maximise the number of holidaymakers with proper coverage through travel insurance. Such discussions should include consideration of the benefits of the introduction of a comprehensible standard contract so that consumers can make reasonable assumptions about what will normally be excluded or included in their cover. (Paragraph 40)

The regulation of bundled travel insurance

4. Given the evidence of the weakness of the sales process within the bundled travel insurance market, we do not believe that there is a convincing case for the maintenance of self-regulation in that market. The fact that the ABTA Code of Conduct is not part of an OFT-approved scheme, albeit for reasons unconnected with the sale of travel insurance, does not inspire us with confidence about the

prospects of progress through voluntary self-regulation. We see merit in the introduction of a coherent and unified system of statutory regulation for the travel insurance market and we believe that the FSA is best-placed to deliver such a system. The FSA has relevant expertise in the regulation of the sale of financial products. Although we are sensitive to the FSA's understandable concerns about the extension of its remit, we believe that the costs of regulation would be greater if carried out by a new body. (Paragraph 41)

5. If the FSA were to assume these additional responsibilities, it would need to ensure that regulation across the travel insurance market was consistent, principles-based and risk-based. We recommend that, if the Government is satisfied that the FSA can deliver regulation that meets these requirements, it extend the scope of FSA insurance regulation to cover the bundled travel insurance market. (Paragraph 42)

Formal minutes

Tuesday 20 February 2007

Members present:

Mr John McFall, in the Chair

Angela Eagle

Sally Keeble

Mr Andrew Love

Kerry McCarthy

Mr Brooks Newmark

John Thurso

Mr Mark Todd

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The scope of Financial Services Authority insurance regulation

The Committee considered this matter.

Draft Report (Are you covered? Travel insurance and its regulation), proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraph 1 read, amended and agreed to.

Paragraphs 2 to 14 read and agreed to.

Paragraph 15 read, amended and agreed to.

Paragraphs 16 to 38 read and agreed to.

Paragraph 39 read, amended and agreed to.

Paragraph 40 read and agreed to.

Paragraph 41 read, amended and agreed to.

Paragraph 42 read and agreed to.

Summary read, amended and agreed to.

Resolved, That the Report, as amended, be the Fourth Report of the Committee to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134 (Select committee (reports)).

Ordered, That the Chairman make the Report to the House.

Ordered, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.

[Adjourned till Tuesday 27 February at 9.15 am.]

List of witnesses

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Mr Adam Phillips , Vice Chair, Financial Services Consumer Panel, and Mr Frank Brehany , Managing Director, HolidayTravelWatch	Ev 1
Mr Mike Monk , Head of Finance, and Ms Paula Macfarlane , Legal Adviser, Association of British Travel Agents	Ev 6 & Ev 15
Mr Alan Williams , Director, Market and Projects-Services, Ms Jennifer Halliday , Markets and Projects-Services, and Ms Siobhan Furlong , Policy and Strategy, Office of Fair Trading	Ev 11 & Ev 15
Ed Balls MP , Economic Secretary to the Treasury, Mr Clive Maxwell , Director, Financial Services, and Mr Darren Philp , Financial Stability and Risk Team, HM Treasury	Ev 15

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Twelfth Report	Financial inclusion: credit, savings, advice and insurance	HC 848
Thirteenth Report	“Banking the unbanked”: banking services, the Post Office Card Account, and financial inclusion	HC 1717