

**Public Bill Committee – Considerations for the Financial Claims and Guidance Bill  
Thomas Cook Group Response – February 2018**

Thomas Cook Group would like to take this opportunity to thank the Public Bill Committee for the opportunity to respond to the call for evidence on the Financial Claims and Guidance Bill.

Our interest in the Bill is in context of an increase in holiday sickness claims, which we believe have been driven by the unscrupulous activities of claims management companies (CMCs). Therefore, our response will look to solely address Part 2 of the Bill, which looks to improve the regulation of these companies.

***About Thomas Cook Group***

For over 177 years, Thomas Cook has been the UK's trusted pioneer in global travel, opening up the world and enabling travel for all. One of the world's leading leisure travel groups – and the only of this scale headquartered in the UK – Thomas Cook Group plc employs around 22,000 people, operating from 16 source markets. Our sales in 2017 totalled £9 billion.

Our UK business sent six million British customers on holiday in 2017. From booking their holiday right through to their return back home, our customers are supported by 8,800 employees in the UK, including in our 640 stores lining high streets across the country.

Adherence to the 1992 Package Travel Regulations provides that Thomas Cook is liable for the proper performance of the travel services contract, and therefore customers who purchase a package holiday have redress through the English and Welsh courts in the UK, rather than having to pursue claims in other jurisdictions.

***The rise in holiday sickness claims***

The UK travel industry and Thomas Cook Group have noted a significant rise in gastric illness (GI) claims made by package holiday customers, brought through a legal representative. The UK travel association ABTA has stated that across the industry, the rise in illness claims since 2013 has been in excess of 500%, with some UK tour operators reporting rises of well over 700%.

This rise in GI claims comes despite data from Customer Satisfaction Questionnaires collected over the same period by travel companies showing no increase in reported incidents of GI.

We believe that the rise in claims was the regrettable, though unintentional consequence of previous civil justice reforms, notably amendments made to the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) in 2012/13, excluding claims made outside of England and Wales from a recoverable fixed cost regime (FCR). This unfortunately left Thomas Cook and the wider travel industry vulnerable to the activities of claims management companies (CMCs), owing to the attractiveness of these claims, which provide a lucrative source of business.

As a result, travel companies and hoteliers are incurring significant financial costs and we have concerns that genuine claims may not get the attention they need, as well as holiday prices for UK travellers increasing and the realistic possibility that UK guests will start to be refused all-inclusive package options by hoteliers. Therefore, the actions of a dishonest minority of UK holidaymakers is

starting to have an impact on the honest majority who will inevitably see the costs of holidays rise, and their choice reduced.

It is for these reasons that Thomas Cook strongly welcomes the Government's commitment to tackle this issue, expressed through the Justice Secretary, the Rt Hon David Lidington's announcement on 9 July, that the Civil Procedure Rules Committee (CPRC) will look at the options for bringing holiday illness claims within a fixed recoverable cost (FRC) regime.

### ***Thomas Cook's proactivity***

Having recognised the significant impact of personal injury claims on the business, Thomas Cook has gone to great lengths, and at great resource, to mitigate the problem. This has been an expensive and time-consuming exercise, but a business the size of Thomas Cook has had greater ability to implement these changes than would a smaller tour operator (the vast majority of the industry). Proactive measures taken by the business include:

#### ***Expanded fraud investigations and improved processes***

- Implementing a new claims process incorporating a robust anti-fraud strategy and developing and deploying systems to identify, investigate, and defend spurious and fraudulent claims. We have invested heavily in staff and systems to achieve this.
- We continue work with our hotel partners to not only ensure the most stringent hygiene standards, but also to evidence customer use of facilities in the event a claim is made.

#### ***Action in the courts***

- We have deployed the full range of remedies available through the court system to tackle fraudulent claims, including having to take steps to utilise criminal sanctions to deter fraudulent activity.
- One example is the high-profile case of *Thomas Cook v Roberts & Briton*. Following Mr Roberts and Ms Briton fraudulent GI claims which together with their legal costs had a value in excess of £50,000, Thomas Cook alleged that the claimants made false or misleading statements in relation to two separate holidays in an attempt to defraud the company. Roberts and Briton pleaded 'guilty' and were sentenced to a combined 24 months in prison.

#### ***Referrals to the Solicitors Regulatory Authority(SRA)***

- We have worked closely with the Solicitors Regulatory Authority (SRA) to raise concerns that some claimant's solicitors are not undertaking a proper analysis of the evidence resulting in a large quantity of 'false or dubious' claims, which at best lack merit, and at worst are fraudulent.
- We have given solicitors representing all ongoing claims an opportunity to review the merits of the claim and consider withdrawing them. This activity led to a significant number of claims being withdrawn, including one individual law firm which withdrew in excess of 1,500 cases. The fervour with which the opportunity to withdraw claims was seized highlights the questionable practices of many solicitors.

#### ***Through improved customer communication***

- We have improved customer notices to highlight the risks in making a fraudulent claim (Annex 1).

Our efforts are no doubt starting to have an impact; however, it is now absolutely clear to our business that despite taking every possible proactive measure within our ability, Government

legislative action is the only possible means to comprehensively tackle the issue of fraudulent GI claims in a meaningful and sustainable way.

### ***Cold calling and the activities of claims management companies***

Thomas Cook's greatest concern is how CMCs have incited customers to commit fraud which, demonstrated by the legal action we have taken against cases we have believed to be false, is a serious offence.

A recent ABTA study revealed that 1 in 5 people in the UK have been approached by CMCs, looking to encourage them to make a false claim. Of the unscrupulous method employed by these companies, telephone calls were the most popular, making up 14% of unsolicited approaches, and text message and email, making up 7% respectively.

Thomas Cook recognises and welcomes the steps already taken by the Government to regulate CMCs in the wake of the PPI claims scandal and strongly welcome initiatives outlined in the Financial Claims and Guidance Bill. In particular, we would support further measures, such as the proposed ban on cold calling by CMCs, a ban on "marketing fees" to CMCs and transparency in relation to the identity of referral sources.

Although we welcome the Government pro-activeness, Thomas Cook has a number of concerns that need to be addressed in order for the Bill, under clause 6, to effectively deal with the method CMCs have employed to approach consumers. Notably:

- The Clause as it stands, does not state that the Financial Conduct Authority (FCA) will be given the enforcement role in regards to regulating CMCs, including specifically stating that the FCA will have the power to enforce penalty breaches. Not only does this go against the precedent of the cold-calling ban that applies to solicitors, which is enforced by the Solicitors Regulatory Authority, but we strongly believe that the FCA is the best vehicle to enable more effective and rigorous regulation and better enforcement of CMCs.
- As previously stated, although cold calling was the most popular method of choice for CMCs to approach holidaymakers, text messaging and email also made up a significant proportion of approaches. Since current regulation has proved ineffective, the Bill must also look to include more stringent rules around these methods.
- Also absent from the Bill is any regulation that will deal with how CMCs collate, process and use consumer data, which has provided a very effective method for CMCs to target people, and therefore needs to be addressed in order to restrict and interrupt their operations. In particular, Thomas Cook would urge the full adoption of amendment 42, which was introduced in the House of Lords, stating:

**"Ban on unsolicited real-time direct approaches by, on behalf of, or for the benefit of companies carrying out claims management services and a ban on the use by claims management companies of data obtained by such methods**

(1) The FCA must, within the period of six months beginning with the day on which this Act comes into force, introduce bans on—

(a) unsolicited real-time direct approaches to members of the public carried out by whatever means, digital or otherwise, by, on behalf of, or for the benefit of companies carrying out claims management services or their agents or

representatives, 14 Financial Guidance and Claims Bill [HL] After Clause 17 - continued

(b) the use for any purpose of any data by companies carrying out claims management services, their agents or representatives where they cannot demonstrate to the satisfaction of the FCA that this data does not arise from any unsolicited real-time direct approach to members of the public carried out by whatever means, digital or otherwise.

(2) The FCA must fix the appropriate penalties for breaches of subsection (1)(a) and (b) above.”

#### **Further information**

If you require further information, please contact Stephen D’Alfonso, Group Head of Public Affairs ([stephen.dalfonso@thomascook.com](mailto:stephen.dalfonso@thomascook.com); +44 07753 289 475). Thomas Cook would be happy to provide oral evidence, if required.

#### **About Thomas Cook Group**

One of the world’s leading leisure travel groups – and the only of this scale headquartered in the UK – Thomas Cook Group plc employs around 22,000 people in 16 source markets, and operates a global fleet of 94 aircraft. Our sales in 2017 totalled £9 billion.

Our UK business sent six million British customers on holiday in 2017. From booking their holiday right through to their return back home, our customers are supported by 8,800 employees in the UK, including 5,000 retail staff in 640 shops lining high streets across the country; 250 experts in our customer care centre in Falkirk; and more than 1,000 highly skilled workers in our state-of-the-art maintenance hangar facility at Manchester Airport.

**Annex II: Improved Thomas Cook customer communications**

A flyer distributed to all passengers on arrival in resort areas:

# HOLIDAY ILLNESS

## HOW FRAUDULENT CLAIMS AFFECT YOU

**You may have heard about fraudulent illness claims and how they may impact on holidaymakers. You may also hear about tour operators and hotels taking legal action against holidaymakers who've attempted to make fraudulent claims. Some hotels are refusing to accept bookings where they believe a previous false claim has been made and some are planning to stop offering all inclusive holidays to UK customers.**

<p><b>We want you to know..</b></p> <p>We care about our customers and want you to have a fantastic holiday with us. We're committed to clamping down on false illness claims and the claims companies that are encouraging them, because we want to continue offering great holidays at the lowest prices possible.</p>	<p><b>All we ask...</b></p> <p>In the unlikely event you're ill on holiday, please let us know as soon as you can. We're here to help and we've made reporting an illness very easy to do. We'll help arrange medical treatment if you need it, and by reporting it, we can try to make sure it doesn't spoil your holiday.</p>	<p><b>If these steps aren't followed...</b></p> <p>If you are ill while away and don't report it in resort, it will change how we deal with your claim. We may be unwilling to accept your claim or pay compensation.</p>
--	---	---

**You can trust us but we need your help. Please let us know straight away:**

- If you're ill while on holiday
- If you're approached and encouraged to put in a fraudulent claim
- If you've any information which can help us prevent and detect fraud

**We really want you to have an enjoyable holiday and we hope you're looking forward to it! If you become ill, here's what we need you to do:**

- If you suffer from illness while on holiday, it's important that you speak to your holiday rep, or contact our connected service 24/7:  
Call: 0044 161 774 2966 Text: 0044 753 741 6150  
WhatsApp: 0672 024 768  
Email: [Connected@Thomascook.com](mailto:Connected@Thomascook.com)  
We can make sure you get the help you need
- Contacting a doctor abroad can often feel daunting. Our team can help put you in touch with the right local medical professionals to make sure you get the right tests, diagnosis and treatment you need. We'd also recommend you see your GP as early as possible when you get home
- If you think your illness was caused by something you ate at your hotel, it's important you have evidence of this from the doctor you see on holiday, and your GP at home. If you feel you've reason to make a complaint or claim about a holiday illness you must be able to show you've followed these steps

**Here are some hints and tips to help prevent illness while you're away**

- The sun will hopefully be shining so don't stay out too long and drink lots of bottled water
- Just remember sometimes alcohol measures are bigger abroad
- Make sure hot meals you eat are thoroughly cooked and still hot when they arrive

For more hints and tips see the Thomas Cook information folder in the hotel reception area.

**WE HOPE YOU HAVE A FANTASTIC HOLIDAY**

**MAKING A FRAUDULENT CLAIM IS A CRIMINAL OFFENCE**

Holidaymakers should also be aware:

- We investigate all claims thoroughly
- We're working with fraud investigators
- Anyone making false claims may be prosecuted and will be prevented from travelling with us in future
- The Foreign Office warn that people travelling to Spain and Portugal that make fraudulent claims could face legal proceedings in the UK or Spain or Portugal
- If illness isn't reported in resort it will change how we deal with any claim submitted and we may be unwilling to accept your claim.

A series of blog posts and tips available on [ThomasCook.com](https://www.thomascook.com) and published within our in-flight magazine:

[Home](#) - [Travel Advice & Safety](#) - [Latest Travel Updates](#)

## Carol MacKenzie gives her views on sickness claims



**Group Head of Customer Welfare Carol MacKenzie gives her views on sickness claims:**

Tourists have long been a target for people trying to make some easy money. From dubious designer watches sold on the beach to bookings for timeshare villas which do not exist, we all know we often need to keep our wits about us when it comes to holidays.