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What recourse do you have if your travel company goes bust?

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Despite the many legal requirements designed to protect travellers' money, there are still some gaping loopholes - as more than 100 customers of Encounter Overland discovered in January. Encounter, a respected adventure travel operator founded in the 1960s, collapsed without warning, leaving 43 people potentially stranded in various far-flung parts of the world and 79 others, who were expecting to travel, without a holiday. The company wasn't bonded - but then it didn't have to be, even though it was holding about £250,000 of its customers' money.

According to European law, a travel company only has to protect its customers from financial collapse if it offers "package holidays". Essentially, this means a holiday that includes more than one element. A flight and a hotel listed in a brochure would count as a package, a villa rental offered by an agent probably wouldn't. Companies such as Encounter, which offered overland tours, argue that they aren't providing packages and thus don't have to organise financial protection.

Travel agents that "tailor-make" packages - booking perhaps a flight, hire car and hotel at your request - also fall outside these legal requirements. But, and this is where things begin to get complicated, if they offer exactly the same holiday in a "pre-arranged" combination, they have to protect their customers' money.

In short, the situation is confusing - not just for consumers, but for trading standards officers who have to police the law, and for the trade itself. To make matters worse, because it is expensive to put bonding arrangements in place, some companies get round the rules by offering "unpackaged" holidays - saying they can arrange flights separately from a villa for instance. This makes it hard for the consumer to know when or if he is protected.

Even in cases where a travel company is obliged to put protection arrangements in place, there are concerns that the rules are too lax, and it is too easy for tour operators to abuse them. An operator can either place a financial bond with a licensed bonding organisation (see right), or it can set up a trust fund to hold its customers' money until they have taken their holidays.

But the rules for running trust funds have been heavily criticised. The Consumers' Association, for example, argues that they are flawed because there is no requirement for independent scrutiny, or back-up if the fund falls short. If the company you are booking with does offer protection in the form of a trust fund, you may want to book and pay with a credit card (see below).

So how can you be sure that your money is safe? Here is our guide to your safety.

Note The Encounter brand has been bought by Dragoman and will re-launch next week with full financial protection in place.

Who protects what

ATOL

Run by the Civil Aviation Authority, the ATOL (Air Travel Organisers' Licence) is by far the biggest bonding and licensing scheme. It is compulsory for all tour operators offering package holidays which include a flight to hold an ATOL. It also covers many, though not all, flight-only deals sold by travel agents. The agent may hold an ATOL itself, or it may be acting as an agent for an ATOL holder.

Protected All package holidays, charter and discounted scheduled flights booked with a company which holds a current ATOL, and all bookings where you are given an official ATOL receipt for your payment. In short, the vast majority of package holidays. If the licensed agent or operator fails, the CAA will organise a refund (usually within four weeks) for those who have yet to travel, and arrange for customers who are still abroad to continue their holidays as normally as possible.

Not protected Any booking where you are given an airline ticket instead of an ATOL receipt or if you book direct with a scheduled airline. The failures of Air Europe ten years ago and Debonair last year highlighted the fact that there are no protection arrangements for many people travelling on scheduled airlines. You can buy insurance against financial failures, and other scheduled airlines will usually do their best to help get stranded passengers home. But those who have booked in advance are likely to lose money.

Check That the company you are dealing with has a current ATOL licence (020 7832 6600,

www.atol.org.uk) and that you are given a receipt including the licence number for any money you pay.

ABTA

Any tour operator or travel agent may join Abta but they must provide suitable security, usually a bond, to protect their customers' money. Most Abta operators are bonded with the CAA and/or the Federation of Tour Operators.

Protected If an Abta travel agent goes out of business after it has taken your money and before it has issued the relevant tickets or vouchers, you will either be reimbursed, or you will be able to continue with your holiday. You should also get a refund for any holiday offered by the travel agent as a "pre-arranged" package.

Not protected If an Abta travel agent makes a booking for you with an unbonded company (such as Encounter Overland), and it goes out of business, you may lose your money.

Check Current membership (020 7307 1907, www.abta.com).

AITO

The Association of Independent Tour Operators covers holidays offered by its members which fall outside the ATOL scheme.

Protected All bookings with Aito members are protected, and Aito will underwrite any shortfalls in funds to ensure all consumers are fully reimbursed.

Check Current membership (020 8744 9280, www.aito.co.uk).

PSA

The Passenger Shipping Association represents cruise and ferry tour operators and runs its own bonding scheme.

Protected Some package holidays offered by PSA members which don't include a flight.

Not protected The PSA logo does not necessarily indicate that the operator is bonded with the PSA.

Check Current membership (020 7436 2449).

TTA

The Travel Trust Association has 470 tour operator and travel agent members which protect their clients' money through trust funds. The TTA ensures that these trusts are properly run and regularly monitored and also underwrites any shortfall (up to £11,000 per passenger).

Protected All package holidays booked with a TTA member.

Check Current membership (020 8876 4458, www.traveltrust.co.uk).

_ Important note All the above schemes are obviously only effective if the company you book with is still a member. It is not unknown for companies to continue (illegally) using a scheme logo even though they are no longer members. Which is why we recommend checking current membership before booking.

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