
Which?, 2 Marylebone Road, London, NW1 4DF**Date: 26th February 2021****Response to: FCA guidance consultation on cancellations and refunds**

Consultation Response

Which? response to FCA guidance consultation on ‘Cancellations and refunds: helping consumers with rights and routes to refunds’

Which? welcomes the opportunity to respond to the FCA’s consultation on extending its temporary guidance for insurance and card providers to help consumers with rights and routes to travel related refunds.

In our response to the FCA’s original consultation on this guidance submitted in August 2020, we called for the guidance to remain effective for longer than the proposed period of 6 months on the basis that consumers were likely to continue to experience travel disruption and difficulty in accessing refunds for their cancelled travel arrangements. Recent research from Which? has confirmed that this is the case. Our research has found that approximately 2.3 million people across the UK have not received money back for flights they could not take since the UK went into its first lockdown in the middle of March last year.¹ Under Regulation EC261/2004, passengers flying on a UK or EU-based carrier, or flying from a UK or EU airport, are entitled to a full refund within seven days if their flight has been cancelled by the airline.² However, many flights continued to operate but passengers were unable to travel due to government advice either in the UK, or the destination country, and other restrictions (such as new quarantine rules). As many restrictions are still in place this will no doubt continue to be an issue.

Given the current landscape of constantly changing travel restrictions, the ineffectiveness of existing payment protections in the travel sector and the likelihood of consumers continuing to suffer the impact of travel disruption for the foreseeable future, it is important for the guidance to remain in place so that insurance and card providers process claims as effectively and efficiently as possible. Moreover, it is important to highlight that with the introduction of new rules on coronavirus testing, such as the requirement to book a travel testing package which costs £210 per person, as well as hotel quarantine, consumers now risk facing significant additional costs related to travel.³ Also, consumers can incur unexpected costs as a result of sudden changes to the “red list” countries from which entry to the UK is banned or from receiving a positive test result while quarantining in a hotel on return from these countries, which would extend their stay by a further 10 days.⁴ These potential risks and general uncertainty over the ability to access refunds and compensation for travel disruption makes the consumer journey more complex and difficult to navigate.

¹ Which? (2021), “Over two million people haven’t received money back for flights they couldn’t take during pandemic” <https://www.which.co.uk/news/2021/02/over-two-million-people-havent-received-money-back-for-flights-they-couldnt-take-during-pandemic/>

² CAA (2021) *Guidance on consumer law for airlines*. <https://www.caa.co.uk/Commercial-industry/Airlines/Guidance-on-consumer-law-for-airlines/>

³ Department of Health and Social Care(2021) *How to quarantine when you arrive in England*. <https://www.gov.uk/guidance/how-to-quarantine-when-you-arrive-in-england>

⁴ Ibid.

This guidance should provide greater clarity on the claims process and should contribute to refund requests being processed more efficiently, improving what can often be a convoluted and stressful experience for the customer. As such, we believe that the recommendations in this guidance represent fundamental principles of good practise that firms should also be adhering to in more normal circumstances when dealing with claims related to travel cancellations and refunds. Therefore, rather than extending the guidance for a set period beyond 2 April 2021, we strongly recommend that the guidance should be included in the FCA's standard advice to insurance and card providers and remain in place beyond the circumstances of the coronavirus pandemic.

We also urge the FCA to take a proactive role in ensuring firms are adhering to the expectations set out in the guidance and monitor claim handling practices to ensure consumers are not continually passed from one firm to another and financially impacted by long delays in processing their refund claims. As part of this, it is crucial that the FCA actively reviews how insurance and credit card providers have used the guidance and the impact it has had on consumers and claims handling.

Finally, as previously expressed in our response last August, we would like to emphasise the need for greater cooperation between the travel sector and financial services and call on the FCA to facilitate and promote this in liaison with other regulators, such as the CAA and CMA. While the current guidance supports consumers with existing pre-Covid insurance cover, recent research from Which? has shown that those who will be purchasing a new travel insurance policy face inadequate cover and increased costs. Which? analysis conducted between October and November 2020 found that no travel insurer is providing 'complete' cover for COVID-19 that would protect customers against changing FCDO advice related to the pandemic, and few (5 out of 73 providers surveyed) cover customers if they have to cancel travel because of regional or national government lockdowns.⁵ The research also found that many of these providers (42 of 66 responding to the question) had or would soon be raising their prices because of the pandemic - despite the withdrawal of these key protections from cover.⁶ We urge the FCA to work closely with the CAA and CMA to ensure consumers have adequate access to protections for new bookings and hope the FCA's work on the value of insurance will address these issues.

About Which?

Which? is the UK's consumer champion. As an organisation we're not for profit - a powerful force for good, here to make life simpler, fairer and safer for everyone. We're the independent consumer voice that provides impartial advice, investigates, holds businesses to account and works with policymakers to make change happen. We fund our work mainly through member subscriptions, we're not influenced by third parties and we buy all the products that we test.

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February 2021

⁵ Sobers, Dean (2021) 'Is your travel cover COVID-proof?', *Which? Money*, January 2021, pp.10-14.

⁶ Ibid.