Submission to Review of Travel Related Consumer Protection Measures
PricewaterhouseCoopers
2 Southbank Boulevard
Southbank VIC 3006

7 April 2010

Dear Sir/Madam

**Review of consumer protection measures in the travel and travel related services market**

The Queensland Tourism Industry Council (QTIC) welcomes the opportunity to provide feedback on the ‘Review of consumer protection measures in the travel and travel related services market in Australia’. The information provided in this submission reflects the views of Queensland’s highly diverse tourism sector bodies and can be considered as a united industry view on this issue.

As an outcome of this review, QTIC looks forward to the development of a regulatory regime where consumers, agents and operators can transact travel arrangements knowing that protection measures are universally accessible and applicable.

**The Queensland Tourism Industry Council**

The Queensland Tourism Industry Council (QTIC) is a private sector, membership-based tourism industry organisation. QTIC represents the interests of the tourism industry, including business operators, Regional Tourism Organisations (RTOs) and sector associations.

All of Queensland’s RTOs are members of QTIC, as are 17 of the industry’s sector associations and in excess of 3,000 regional members, operating in all sectors of the tourism industry.

QTIC is owned and governed by its members through member based councils, boards and committees and truly reflects the views of the industry at all levels throughout Queensland.

**Feedback**

While the current consumer protection system has appropriately served both consumers and the travel industry well, QTIC acknowledges that recent changes to both the structure of the travel industry and to consumer purchasing patterns mean that this system is no longer consistent with today’s travel services environment. With this in mind, QTIC recognises the need for a review of this system to reflect the modern realities of the travel service market.

Specifically, QTIC wishes to make the following additional points.
• Travel service providers play an important role in servicing the travelling public and make a valuable contribution to the Australian economy. In order to continue in this important role, a supportive regulatory or self regulatory environment must be put in place to ensure that this industry sector operates as efficiently as possible and provides consumers with high standard services.

• QTIC suggests the Standing Committee of Officials on Consumer Affairs (SCCOA) consider the ideas outlined in the 'Joint Queensland Tourism Industry Submission'. This submission has been informed by input from both government agencies and the wider industry. The information provided by QTIC in this submission complements the ideas raised in the joint industry submission.

• QTIC also suggests that SCCOA review the ideas outlined in the Australian Federation of Travel Agents’ (AFTA) submission on this issue. AFTA's submission appropriately summarises how the current regulatory scheme does not provide appropriate coverage to reflect the realities of today's travel market place. AFTA's submission also outlines a number of proposals worthy of consideration when developing a new consumer protection model.

• QTIC acknowledges the flaws in the current Travel Compensation Fund (TCF) model, which was designed to deal with a situation where travel agents were more prevailing participants in the travel services industry. The current market place – where an increasing number of consumers are dealing directly with suppliers and paying for travel electronically – has made some aspects of the TCF model obsolete.

• QTIC agrees that credit card chargeback is a significant protection mechanism available to travellers due to the increasing use of credit cards as a means of payment. In the event of agent insolvency, credit card chargeback is often considered the first option for reimbursement. In addition, the TCF states that it will invariably not pay a claim for a credit card payment unless the claimant can show that a chargeback application was made but declined.

• QTIC supports, in principle, the development of an industry accreditation scheme for the travel services market to compliment a licensing regime. Such a scheme would assist in raising industry standards and could be established under the auspices of the Federal Government's 'National Tourism Accreditation Framework' (NTAF).

Industry standards are also being raised organically as travel agents are now operating in a more open and competitive market, which has required operators to adapt their business practices to meet changes in consumer expectations.

QTIC proposes that, as part of this scheme, consumers should be provided with an easy accessible complaints telephone number. This generic complaints line would provide consumers with confidence that any issues they have experienced are being investigated.

• Under the current Queensland legislation (the Travel Agents Act 1988), tour desks selling over $50,000 a year for overnight travel sales are required to be registered travel agents,
while tour desks selling under this threshold amount (regardless of their day tour sales) are not required to be registered.

A consequence of this legislation is that there is limited protection for consumers in instances where they have purchased travel from unregistered tour desks.

This issue is particularly apparent in the Cairns region and has led to differing levels of quality customer service offered by some tour desks, limited protection for consumers when issues have arisen with unregistered tour desks and, consequently, negative visitor perceptions of some regional tour operators due to issues arising with these unregistered agents.

From an operators’ perspective, this legislation has also led to tourism businesses being charged high commission rates by unlicensed agents and instances of tour desks withholding payments to tour operators of fees paid by customers.

- QTIC urges caution in the reliance on industry associations to ensure appropriate conduct by travel agencies. While QTIC acknowledges that a number of associations have strong industry codes of ethics, many industry bodies are restricted in the level of enforcement they can impose on non-complying businesses.

- When considering regulatory reform in the travel services industry, QTIC urges the SCCOA to acknowledge that all regulation imposes a degree of cost on businesses and may unnecessarily hinder economic activity. With this in mind, regulatory measures should be considered and designed to minimise the financial burden placed on businesses. QTIC agrees that in a national industry, such as the Australian travel industry, regulatory burden can be reduced by harmonising state and territory regimes.

- QTIC urges caution in widening regulatory coverage in the travel sector to include travel services offered by visitor information centres (VICs). Only a small number of VICs in Queensland are licensed travel agents as the majority of centres have an annual turnover of less than $50,000. Although on a small scale, these services offered by VICs support many small local tourism operators who are financially restricted in accessing wholesale or retail travel programs.

Widening licensing arrangements to include VICs would discourage a number of visitor information centres from continuing to offer booking services due to the increased operation, staff and licensing requirements. In addition, with the majority of VIC staff being volunteers, considerable education and training would be required to ensure that workers understood the necessary requirements.

- In its review of consumer protection, QTIC urges the SCCOA to consider the protection rights of tourism and hospitality operators should an agent go into insolvency. QTIC, in particular, seeks consideration of cases where the clients have travelled with, or stayed with, the operator but the agency still retains the funds from the clients at the time of liquidation.

In a number of regional centres - such as Cairns - this situation can be devastating if the cash flow expected from the agent was large.
To overcome these issues, QTIC proposes that travel agents should be required to forward all funds held for future bookings within 7 days of the booking being made. Alternatively, agents could be required to place the disbursement funds into trust accounts in a mode similar to that of solicitors or banks.

- Finally, QTIC would also like to strongly encourage governments to adequately resource and charge relevant agencies, including the ACCC and the State Fair Trading Office, with the enforcement of existing laws and regulation. This may prove to be an effective measure in addition to any new laws or regulation.

QTIC welcomes the opportunity to provide input into ‘Review of consumer protection measures in the travel and travel related services market in Australia’. QTIC looks forward to the development of a model for consumer protection that ensures consumers, agents and operators can transact travel arrangements with confidence.

If you have any questions, please contact David Liddell, Policy Officer, on (07) 3236 1445.

Kind Regards,

Daniel Gschwind
Chief Executive