

## Lowcosttravelgroup insolvency shows why UK needs Euro Reg

The recent collapse of a global travel group headquartered in the UK illustrates how Brexit is already creating more work for British practitioners, but also how the London-based restructuring market stands to lose if the country does not remain inside the European Insolvency Regulation.

Lowcosttravelgroup's collapse has been partly attributed to Brexit. The UK-based parent company and 3 subsidiaries of the group went into English administration on 15 July. The Spanish group company also entered into English administration following a court hearing on 21 July, in which the court was persuaded that the company's centre of main interests (COMI) was in the UK rather than Spain.



Glen Flannery, Nabarro LLP

Glen Flannery, the restructuring partner who led the Nabarro team advising the administrators, commented:

"Making effective use of the European Insolvency Regulation, it has been possible to anchor the group proceedings in the UK, thereby avoiding the complication and cost of disparate proceedings across a range of jurisdictions."

"It would be very unfortunate for cross-border cases involving the UK if Brexit were to bring an end to the tools available under the Regulation."

"A possible solution would be to negotiate to remain within the Regulation by treaty," said Flannery.

Lowcosttravelgroup operated a global travel agency business from headquarters in the UK and had substantial operations in Spain, Poland and Switzerland. It was one of

the biggest sellers of package holidays and hotel accommodation worldwide, with a 500 strong workforce.

About 70 were in Spain, 270 in Poland, another 7 in Switzerland with the balance in the UK.

Its annual transaction values were in the region of UK£500 million and it arranged flights for more than 3 million customers each year. Its collapse left around 27,000 customers in resorts wondering about their future, with another 110,000 who had booked travel through the group but who had yet to travel.

### Functions and powers

One interesting aspect of the case is that, within the administration order for the Spanish company, Nabarro has recited the administrators' objectives, functions and powers, as well as other effects of the administration such as the moratorium, to assist in getting recognition of the administration and its effects in Spain.

This practice, which could be described as "getting things down in black and white", was promoted by Flannery in some of the early COMI cases.

It's a practical measure to assist in getting local recognition, and has been used in a series of high profile cases since, including Eurodis and Nortel.

The administration order for the Spanish company also includes other forms of relief designed to streamline the process and minimise costs in a case with such a large and global consumer and creditor base. These

include the ability to deliver notices to creditors via electronic means, such as email and web-site.

### So – was it Brexit's fault?

The formal insolvency came after the group's directors had made exhaustive efforts to turnaround its fortunes.

Among other factors, the failure has been attributed to increased competition, the negative effects of terror threats on bookings and, more recently, the impact of the Brexit referendum in the UK.

The uncertainty in the run up to the vote caused some customers to delay holiday decisions. Also, travel from the UK to the EU and elsewhere has been made more expensive by the fall in Sterling following the Brexit vote. UK travellers totalled almost 60 per cent of the company's market.

Flannery commented:

"The full effects of Brexit have yet play out, but soon after the outcome it is being cited as a contributing factor in some business failures, particularly in sectors sensitive to discretionary consumer spending and currency fluctuations. "Travel is one of those sectors in which there may be more distress."

### Lowcosttravelgroup Firms & Faces

#### The administrators

The administrators are **Finbarr O'Connell**, **Henry Shinnars** and **Colin Hardman** of Smith & Williamson LLP and **Lane Bednash** of CMB Partners UK Ltd.

They are represented by Nabarro, with a team led by **Glen Flannery**.



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