

EDITORIAL

The 'local standards' argument is now fairly well entrenched in English law. One rationale for the rule is that a tour operator with clients from around the world could be faced with claims, based not upon the standards of the host country, but of the country in which the client lived – potentially imposing western European or North American standards on southern Mediterranean or African or eastern European destinations. Thus for one incident involving several clients the tour operator might be liable to some but not to others, despite the same factual basis, depending upon where they came from. The origin of the rule is the case of *Wilson v Best Travel Ltd* [1993] 1 All ER 353 where Phillips J held that a tour operator was not liable to a client who fell through a glass door that complied with Greek standards but not UK standards. He said:

“The duty of care of a tour operator is likely to extend to checking that local safety regulations are complied with. Provided that they are, I do not consider that the tour operator owes a duty to boycott a hotel because of the absence of some safety feature which would be found in an English hotel unless the absence of such a feature might lead a reasonable holidaymaker to decline to take a holiday at the hotel in question.”

Richards LJ put it more succinctly in *Evans v Kosmar Villa Holidays* [2008] 1 WLR 306:

“... the hotel [abroad] is required to comply with local safety regulations rather than British safety standards.”

So English tour operators selling packages governed by English law can be relatively certain that the local standards argument will prevail. But what about those tour operators who sell packages in different jurisdictions and therefore subject to different legal regimes. For instance a tour operator with an international operation might sell a tour to Vietnam, Cambodia and Laos and find that they have English, South African, Canadian, US and Australian tourists on the same package – who all booked their holiday in their home country and subject to the laws of their home country. Depending on the legal regime prevailing in that country the tour operator might find that its liability varied considerably and that not all countries applied the local standards argument – meaning that the tour operator might be liable in some instances and not in others – and some of their consumers would be compensated and others not. So much for consistency.

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My good friend and co-editor, Joe Harbaugh, once said to me “If you want to fix the tourism product first of all fix the taxi drivers”. In marketing terms taxi drivers represent the ‘Moment of Truth’ for tourists. They are often the first person a tourist encounters at their destination and they are in a position to permanently influence the impression of the host country – and not always benignly. Over the years I have had a number of adverse experiences with taxi drivers – the Beijing driver who thought the quickest way to the station was to go around the entire perimeter of the inner ring road rather than take a local street only a few hundred metres in length; similarly the Lisbon driver who thought a

detour through the suburbs was the quickest way to the centre of town; the Istanbul driver who attempted to give change for a 10,000 Turkish Lira note instead of the 100,000 note I had handed over; the East Jerusalem driver who refused to turn the meter on – insisting that the fare he quoted orally was better than the metered fare; the New Delhi drivers who multiplied the fare on the meter by a factor of 10 because they said that the meters hadn't been adjusted to keep up with inflation; and the Italian taxi drivers at the port of Livorno who refused to take us to the local station from whence we could take a train to Florence – because they only offered fares to Florence itself.

However even if all these practices are eliminated that might not be the end of the problem. London black cab drivers are well known for their opinionated views on just about anything under the sun, whether solicited or not, and recently on a visit to Athens we discovered that Athenian taxi drivers are little different. After hailing a taxi in Piraeus we were subjected to the driver's analysis of the economic crisis in Greece. He was quite clear: "It's not our fault," he said. "They should never have kept lending us all that money when they knew we couldn't pay it back." His Cockney counterparts would have been proud of such a diagnosis. Fortunately the journey was only a short one so we didn't have endure much more of the same, but I suspect that a German tourist or a French banker might have responded quite heatedly. Joe of course would have enjoyed the debate, seeing it as part of a rich cultural experience and recognising that there are limits as to how far regulation can extend.

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