

**Summary of responses to the consultation launched to gather stakeholders' opinions  
on the existing problems and preferred solutions in order to identify preferred  
policy options as part of the Commission's review of the Package Travel Directive**

**March 2010**

## 1. GENERAL

The public consultation was launched on 26<sup>th</sup> November 2009 and ran until 7<sup>th</sup> February 2010. The Commission received 161 contributions from different stakeholders. The consultation targeted at Member State authorities, industry associations, companies, consumer organisations and consumers. Five separate questionnaires were published, with some common questions asked across all the stakeholders and other questions targeted at each specific stakeholder group. The Commission received contributions from a wide range of respondents. For the industry associations there were respondents representing tour and travel agencies, airlines (including low cost airlines), hotels and restaurants, shipping and cruises as well as internet travel agencies. For the MS Authorities, there were respondents from different ministries and agencies responsible for the enforcement of the PTD. The detailed list of respondents for each of the questionnaires is presented in Annex 1.

## 2. SCOPE OF THE DIRECTIVE

There was broad agreement across all stakeholder groups for revising the current definition of a package (as in the existing Package Travel Directive). Consumers and consumer organisations, as well as Member States, indicated that they were in favour of extending the definition of a package and, thereon, the scope of the Directive to provide protection for a wider range of so-called “dynamic packages”, both with respect to **packages including accommodation, transport and/ or other tourist services purchased on the internet from the same site where consumers can assemble the content of the package and packages including accommodation, transport and/ or other tourist services purchased on the internet from different sites which are clearly linked on their web pages.** More than half of both industry associations and individual companies responding to the consultation were also in favour of extending scope in this way.

Fewer than half of the respondents in all stakeholder groups (with the exception of consumer organisations, where the option still received the lowest level of support among all options considered) were of the view that the Directive should apply to business travellers. However, it was noted by key industry association respondents that there may be difficulties in determining the precise purpose of every trip, particularly in relation to trips involving both business and leisure elements. A higher proportion of consumers and consumer organisations (compared with responses from the other stakeholder groups) were in favour of including **transport and tourist activities where the service covers a period of less than 24 hours and transport including accommodation** within the scope of the Directive.

Opinion was split among all stakeholder groups on whether or not occasionally organised packages should be included within the scope of the Directive (with only a very slight preference in favour). However, respondents from all groups were slightly less in favour of including such packages when they were organised by a non-business organisation.

The current Directive defines a package as *a combination of not fewer than two of the following when sold or offered for sale at an inclusive price and when the service covers a period of more than twenty-four hours or includes overnight accommodation: (a) transport; (b) accommodation; (c) other tourist services not ancillary to transport or accommodation and accounting for a significant proportion of the package*. Whilst keen to establish that “other tourist services” should indeed represent a “significant proportion of the package”, the majority of business stakeholders and Member State authorities were not in favour of defining significant as a fixed percentage of the overall price.

## INFORMATION REQUIREMENTS

The Directive sets down strict requirements relating to information regarding package travel provided in a brochure. This provision has been criticised for focusing solely on the brochure when there are a wide range of other marketing materials increasingly used in today’s travel industry. The burden on businesses (arising from the fact that the brochure is binding and, as such, changes in price etc. may require continuous reprinting of brochures) has been highlighted as significant by business stakeholders.

Industry associations noted the lack of clarity regarding whether or not certain internet marketing material is subject to requirements established for the brochure and how the interpretation of this varies from Member State to Member State. Suggestions included:

- removing the requirement to include prices in brochures;
- replacing the requirement with a provision for specifying how prices are to be calculated and referring consumers to a source of up-to-date information;
- applying the same rules for brochures to other marketing channels;
- enacting full harmonisation to ensure the same interpretation of what constitutes a brochure in all Member States and/or removing special rules for package travel in this area and ensuring harmonisation with other consumer protection tools.

All stakeholders were asked to review the current list of information requirements included within the current PTD and to rate them according to how important they felt the information was for consumers when making decisions regarding the purchase of package travel. The vast majority of respondents across all groups considered the **amount which is to be paid on account and the timetable for payment of the balance** as being essential information.

On the other hand, fewer than 37% of the respondents in all stakeholder groups considered information regarding **insurance possibilities** and **meal plans** to be essential. Provision of **information on health formalities (or requirements)** was also supported by lower percentages of respondents from each stakeholder group.

As regards the timing for providing the various pieces of information, the only aspect that most stakeholders felt did not need to be provided at the pre-contract stage was **information on the name, address and telephone number of the organiser's and/or retailer's local representative or, failing that, of local agencies on whose assistance a consumer in difficulty could call**. Although, it is noted that this was considered to be essential information by a high percentage of respondents and should definitely be provided before departure.

With respect to information to be provided in the contract, there appears to be a large overlap between current requirements in the PTD and types of information that the consultees perceive should be provided on a mandatory basis. However, slightly less than 50% of respondents in all stakeholder groups felt that health requirements, insurance possibilities and passport and visa requirements should be compulsorily included in travel contracts.

A number of additional information requirements (which are not already listed within the Directive) were also suggested by stakeholders and these included:

- information on redress in the event of non-performance of the contract;
- insurance and process in the event of insolvency/bankruptcy;
- existence (or not) of a cooling-off period;
- availability of facilities;
- accessibility for disabled people;
- health and safety requirements or measures;
- any circumstance that can disturb the health or rest of the consumer (e.g. works outside or nearby the hotel); and
- information about included or optional excursions, visits or circuits.

The PTD does not prescribe the precise form in which some of the information requirements are to be fulfilled. As a result, these provisions have been transposed in different ways by Member States; hence, while some Member States require information provision in written form only, other Member States do not specify, in some cases, the format in which information is to be provided.

Consultation responses were varied as to how stakeholders felt information should be provided at the pre-contract, contract and before departure stages. There was a much stronger preference for information to be provided in **paper and other printed means** as well as on **durable media** in the contract itself. However, fewer respondents across all groups suggested that these should be the formats used for pre-contractual information. A higher percentage of respondents across all stakeholder groups felt that information at the pre-contractual stage could be provided on websites or other marketing materials.

The Package Travel Directive also does not clearly specify who is responsible for providing information to the consumer after a contract is signed and again, Member States have differing national provisions in this respect. When consulted on the matter of who should be responsible for providing information, respondents in all stakeholder groups (except consumers) were mostly in favour of the **organiser/tour operator** being responsible, with a majority of respondents also selecting the **retailer/seller/travel agent** as the responsible party.

### **3. LIABILITIES, OBLIGATIONS AND RESPONSIBILITIES**

The Directive sets out a number of obligations and responsibilities for organisers/retailers but does not explicitly specify which of them is the responsible party. With regard to who should be **responsible for assisting the consumer in difficulty**, the consultation revealed that the majority of stakeholders in all groups felt that the organisers of travel packages should be responsible, with the sellers of the packages being selected by the fewest number in each stakeholder group. A high number of respondents across all stakeholder groups indicated that also individual service providers should be responsible. This likely reflects the fact that the service providers are usually the closest and most immediately available party when things go wrong, as stated by some stakeholders.

The responses were slightly different when considering who would be responsible for the **proper performance of the contract** i.e. if there are problems with the services contracted for. Again, the largest number of respondents in each stakeholder group selected package organisers as being responsible for the performance of the contract (with the exception of individual companies where slightly more companies indicated that service providers compared with organisers should be responsible). More Member State authorities and consumer organisations indicated that the seller should be responsible, compared with those that indicated that the service provider should be. As might be expected, business stakeholders (from companies and industry associations) more often indicated that the direct service providers should be held responsible than the sellers of packages.

There was a clear preference among most Member State stakeholders for a **strict liability approach regarding non-performance of contracts**, with 78% of respondents opting for holding the responsible party liable simply for non-performance against what was promised in both the contract and the marketing materials, even where the non-performance is not necessarily the fault of the party.

#### **4. CHANGES IN CONTRACT TERMS**

The Directive requires that consumers are informed by the organiser as soon as possible and offered the chance to either withdraw from a contract or accept a rider to the contract (which may include a reduction in the price) when organisers/retailers are forced to make significant changes to “essential terms” in contracts.

Except from the price, The “essential terms” are, however, not specified or defined in the Directive. The questionnaire included nine elements that could be regarded as essential elements. The terms that received least support (as being essential terms) across the stakeholder groups were **changes to components of additional services** and **changes in itineraries of those additional services**. As might be expected, consumer organisations were slightly more in favour of considering them essential terms (slightly over 50%), companies and industry associations least in favour (slightly under 50%), and Member State authorities in the middle. Lower levels of support were also indicated for **changes in the carrier** by industry associations. For the other terms, the support was over 80% from all stakeholders.

The Directive allows price revision to be made in certain circumstances if the possibility for making such revision has been previously indicated in the contract.

Member State authorities, industry associations and companies produced similar results to each other when asked what they considered should be the cut-off point to making changes in prices in contracts, in that the highest percentage of respondents opted for the current time limit in the PTD of 20 days. Consumer organisations and consumers were mostly in favour of prices in contracts being binding on the retailer/organiser.

Views regarding the level of price changes that should be permitted (where % increases were specified) showed the highest proportion of Member State authority, industry association and companies respondents selected an increase of between 5% and 10%. However, unsurprisingly, the highest number of industry and company respondents selected “It shouldn’t be specified” and the number of Member State authorities

respondents was second highest for this option. The majority of consumer organisations and consumers indicated that prices should be binding.

In the scenario where a consumer wants to cancel or withdraw from a contract, there was a wide variety of circumstances identified by consumer organisations and consumers themselves (as well as Member State authorities to a lesser extent) where they felt consumers should be able to cancel or withdraw from contracts both with and without paying compensation. Some of the reasons, repeated by a number of respondents, provided for allowing a withdrawal right without paying compensation were:

- changes in essential terms of contracts;
- issues which might anticipate a breach in contract performance, such as where it comes to light before departure that key information on which the consumer made his/he decision to purchase the travel was in fact misleading;
- “force majeure” events such as natural disasters, terrorist activities or military action adversely affecting conditions at the intended destination; and
- unforeseen personal circumstances, such as a death in the family or illness.

It was pointed out that the timing of any withdrawal might also be taken into consideration, involving some form of cancellation period such as a cooling-off period used for goods and services, although the fact that organisers/retailers often have to book services well in advance would need to be considered.

The general view across stakeholder groups was that consumers should be able to cancel the contracts under any circumstances by paying compensation, but that compensation should be proportionate and linked to the value of the product purchased as well as the timing of the cancellation of the contract, with a lesser compensation being payable the longer the notice provided.

## **5. INSOLVENCY PROTECTION**

More than 60% of Member States authority respondents indicated that they felt the insolvency protection schemes in their countries were either effective or very effective. Whilst 70% of these respondents argued that greater harmonisation across Europe is needed, less than 20% voiced support for a pan-European fund, with some industry association and Member State authority respondents suggesting that a greater degree of mutual recognition of schemes would be beneficial.

An area which generated least support from all stakeholders was the establishment of a pan-European fund or scheme for insolvency protection. The largest number of respondents from the Member States authorities, industry associations and companies groups indicated that they felt such a move was “not important at all” and only 26% of consumer organisations felt it was very important..

All five stakeholder groups were asked whether or not respondents felt there was a need to incorporate a requirement for insolvency protection for standalone air tickets into the Package Travel Directive. The majority of respondents wished to see some form of requirement, being either mandatory or optional (but that protection must be offered). Only about a quarter of industry associations thought airlines should not be required to offer some form of protection (although as might be expected, this did not include airline associations). Consumers and consumer organisations were more in favour of mandatory requirements to provide protection, whereas Member State authorities and companies were slightly in favour of optional provision.

## FUTURE REGULATORY FRAMEWORK

Business stakeholders did not feel that extending the scope of the Directive rated as an important aspect of the Directive requiring regulatory update, although they were very keen to have the existing scope clarified. Member State authorities and consumer organisations were significantly more likely to rate the extension of the Directive as being very important. Other aspects of the Directive that respondents considered very important for update were **accommodating other channels of marketing communication**, where approximately two thirds of respondents across all stakeholder groups considered it very important and **clarifying/updating definitions** where again, approximately two thirds of respondents felt it was very important (with the exception of Member State authorities where the figure was almost half).

Cross-border trade issues had been highlighted by some stakeholders during previous consultation and Member State authorities, industry associations and companies were asked to identify the importance of different aspects of the implementation of the PTD for cross border trade. Similar results were received across Member State authorities and companies, with the majority of respondents indicating that **divergent information requirements, different scope of the protection rules, divergent definitions, different insolvency schemes and different national rules concerning liability and obligations of the contractual parties across Member States** were “important” or “very important” obstacles to cross-border trade. Industry associations were more split in their responses, with similar proportions indicating the areas above being “very important” and “not important at all”, and consumer organisations were fairly evenly split in their opinions as to the importance of removing cross border barriers in the form of differing or additional requirements at national levels.

The issue of greater harmonisation was an area which stimulated significant debate with views expressed at both ends of the spectrum. However, the majority of all stakeholder groups consulted (Member State authorities, industry associations, companies and consumer organisations) indicated that it was very important to work towards **harmonisation across Member States on the scope and definitions in the PTD. Harmonising the liabilities of organisers/retailers** received similar support from all groups except industry associations (which still had almost half of the respondents indicating it was “very important”). A similar pattern was observed regarding results on harmonising rules on cancellation/withdrawal by consumers and rules regarding changes in price and essential terms by providers, albeit with slightly lower levels of support.

Among a pre-determined list of policy options to deal with the issues regarding the implementation of the Directive, the vast majority of Member State authorities and consumer organisations were in favour of a **more up-to-date EU Directive** covering package travel, with approximately two thirds of industry associations and companies also supporting this solution. **Issuing guidance for companies businesses** as well as **undertaking awareness campaigns** were supported on a lower scale, with consumer organisations demonstrating the least support out of the four groups. Repealing the Directive and referring to other existing legislation, whilst receiving support from a fifth of company respondents, received very little support from the other stakeholder groups.

Member State authority respondents felt that the introduction of a package travel label indicating whether products were protected or not might be more effective from the perspective of consumers than it would be in terms of providing greater clarification for businesses or in assisting Member State authorities with their monitoring and enforcement activities. Half of industry association respondents did not see a great deal of benefit from introducing such a label, believing it would be no real benefit to consumers, businesses or public authorities. Company opinion was relatively split, with almost equal numbers suggesting the measure would be effective and not effective for all of consumers, businesses and monitoring authorities.

The views of consumer organisations regarding the introduction of such a logo were rather sceptical on whether a label would benefit consumers. Clarifying comments from different organisations included the view that more labels might confuse consumers but if a label were introduced, strict criteria for its use would need to be put in place.

Member States authority respondents were evenly split as to whether or not the current PTD provided an adequate level of protection for consumers. Consumer organisations clearly did not feel that the current legislation provides sufficient protection, with 80% of respondents answering that there was an inadequate level of protection provided under the PTD when purchasing package travel.

## **ANNEX 1**

### **LIST OF CONSULTEES**

## LIST OF CONSULTEES

Provided below are the list of organisations that completed a questionnaire which was published on the European Commission's website relating to the study.

<b>Industry Organisations</b>	<b>Acronym</b>
Association of British Travel Agents	ABTA
Association of Belgian Tour Operators	ABTO
Asociación Catalana de Agencias de Viajes	ACAV
Association of ATOL Companies	AAC
Association of Finnish Travel Agents	AFTA
Association of Independent Tour Operators	AITO
Associazione tour operator italiani	ASTOI
Austrian Federal Economic Chamber	
Austrian Travel Agents and Tour Operators Association	
Bundesverband Deutscher Omnibusunternehmer	
Danmarks Rejsebureau Forening	
European Association of Craft, Small and Medium-Sized Enterprises	UEAPME
European Tour Operators Association	ETOA
European Technology & Travel Services Association	ETTSA
European Community Shipowners Associations	ECSA
European Cruise Council	ECC
European Low Fares Airline Association	ELFAA
European Tour Operators' and Travel Agents' Associations	
Eventia	
Federation of European Direct Selling Associations	FEDSA
Finnish Hospitality Association (MaRa)	
German Travel Association	DRV
Gesamtverband der deutschen Versicherungswirtschaft – German Insurance Association	GDV
Group Travel Organiser	GTO
Danish Hotel Restaurant and Tourism Association	HORESTA
Hotelverband Deutschland e.V.	IHA
Hotels, Restaurants and Cafés in Europe	HOTREC
International Air Transport Association	IATA
International Association of Amusement Parks and Attractions, Europe	IAAPA
International Bar Association - Leisure Industries Section	IBA
International Road Transport Union	IRU
Irish Hotels Federation	
Koninklijk horeca Nederland	
Malta Hotels & Restaurants Association	
National Travel Agents' and Tour Operators' Associations	ECTAA
Passenger Shipping Association	

## **Industry Organisations**

## **Acronym**

Recron (Campsite Owners Association, Netherlands) <sup>1</sup>	
Researrangörsföreningen i Sverige, RiS	
RDA Internationaler Bustouristik Verband e.V.	
Scottish Passenger Agents' Association	
The Netherlands Association of Travel Agents and Tour Operators	ANVR
The Czech Association of Hotels and Restaurants	
Tour.Com	
Travel Trust Association	
Verband Internet Reisevertrieb	VIR
Vereniging van Recreatieondernemers Nederland	

## **Companies**

Agence Voyages-Snfc.com  
Air Malta plc  
British Airways Holidays  
Canvas Holidays Ltd  
Carnival PLC (trading as Carnival UK)  
Eagle Travel Marketing Ltd  
Embassy Travel Ltd  
E Leclerc Voyages  
Expedia  
Group Travel Organiser  
Gurnard Pines Holdings Ltd  
Holiday Cottages Group  
Interval International  
Landal Green Parks  
Lloyds Banking Group Social Club, Bristol  
Mihail Bobocel KG Romania Touristik  
ÖBB-Personenverkehr AG  
Opodo Limited  
Thomas Cook Group plc  
TUI Travel PLC  
VIAJES 2000 SA  
Virgin Holidays  
Wyndham Worldwide

---

<sup>1</sup> Submitted position paper only.

<b>Consumer Organisations</b>	<b>Location</b>
AIRPAX	FRANCE
AVACU	SPAIN
Confédération Syndicale des Familles (CSF)	France
DECO - The Portuguese Association for Consumer Protection	Portugal
Dr Jutta Repl, Bundesarbeitskammer	Austria
Dr. Wolfgang Resch, CEO PEOPIIL	United Kingdom
European Consumer Centre	Poland
European Consumer Centre Austria	Austria
European Consumer Centre Belgium	Belgium
European Consumer Centre ("ECC") Norway	Norway
Fédération Nationale des Associations d'Usagers des Transports (FNAUT)	FRANCE
HolidayTravelWatch	United Kingdom
Mel Thornton	UK
Michael BAKALL	UK
Norwegian Consumer Council	Norway
Norwegian Consumer Ombudsman	Norway
ÖAMTC	Austria
Test-Achats	Belgium
VZBV	Germany
Zveza potrošnikov Slovenije (ZPS)	Slovenia

Responses were received from **consumers** in the following countries: Belgium (2), France (1), Germany, Hungary, Ireland, Malta, Netherlands (2), Portugal (5), Romania, Spain (7), Sweden, UK (7) and the USA

## **Member State Authorities**

### **Country**

Austria	Anonymous
Belgium	Garantiefonds Reizen – Belgian Travel Guarantee Fund
Bulgaria	Ministry of Economy, Energy and Tourism
Cyprus	Competition and Consumer Protection Service
Czech Republic	Ministry for Regional Development of the Czech Republic
Estonia	The Consumer Protection Board of Estonia
Finland	Ministry of Justice The Finnish Consumer Agency
France	APS (French Travel Guarantee Fund) Représentation permanente de la France auprès de l'Union européenne
Germany	Federal Ministry of Justice
Hungary	Ministry of Local Government, Tourism Department
Ireland	National Consumer Agency
Italy	Department of Tourism
Latvia	Ministry of Economics of the Republic of Latvia
Lithuania	State Department of Tourism under the Ministry of Economy State Consumer Rights Protection Authority of the Republic of Lithuania
Luxembourg	Ministère des Classes moyennes(PME) et du Tourisme
Malta	Office of the Prime Minister Directie Europa, Mededinging en Consumenten
Netherlands	Directoraat-Generaal Economische Politiek Ministerie van Economische Zaken
Poland	Office of Competition and Consumer Protection
Portugal	Direcção-Geral do Consumidor
Spain (Catalonia)	Catalan Consumer Agency
Sweden	Ministry of Justice and Ministry of Integration and Gender Equality
United Kingdom	LACORS Office of Fair Trading Trading Standards Institute Gloucestershire Trading Standards Service Department for Business, Innovation and Skill
Norway	Ministry of Children, Equality and Social Inclusion