



**REPORT OF MS WORKSHOP  
HELD IN BRUSSELS, ON 27 OCTOBER 2009**

**REVIEW OF THE PACKAGE TRAVEL DIRECTIVE**

**SESSION 1 – Current problems, definition, scope**

Participants were asked to comment on the current implementation of the PTD in MS. Several MS (FI, SE, DK, BU, CZ, UK) highlighted that the Directive is outdated and supported the revision. Some MS explained that the Directive has been functioning quite well and that there have not been too many problems with the existing legislation. Many MS underlined the need for consumer protection in the area of package travel and several argued in favour of an extension of the scope of protection compared to today, especially in relation to dynamic packages (SE, HU, FR, DK). FR, BE, DE, DK and UK emphasised that a revision must not result in a lowering of the protection in MS. BE suggested that COM should do a coordinated overview of all travel legislation. BE and SE also stressed the need for a level playing field for the competitors in the travel market.

Regarding the question who should be protected (the definition of a consumer), SE and HU were in favour of protecting passengers/travellers in general. BE argued that only consumers (natural persons acting outside their business) should be protected, while some rules, such as the insolvency protection, should apply to all travellers. SE was sceptical towards removing the current exemptions for "occasional" organisers and trips not including overnight stay or less than 24 hours.

The need to consider the revision in connection with horizontal instruments like the ongoing negotiations of the Consumer Rights Directive was mentioned by FI, BE, HU, IE.

**SESSION 2 – Information requirements, liability and obligations, contract changes**

In general MS seemed to be in favour of keeping the existing information requirements as they seem to serve their purpose. However, some MS (SE, UK, DK) underlined the need for more flexibility regarding prices in brochures.

UK, SE argued that organisers should be responsible for proper performance of the contract. On the other hand, FR and DK were in favour of the seller/retailer being the responsible party (as a one-stop shop for the consumer). ES' and MT's view was that both organiser and retailer should be responsible. FR and DK mentioned that they would like flexibility for MS to decide on liability mechanisms. DE argued that there is a need to differentiate between the roles of the organiser and retailer since they do not have the same influence on the performance. IE opted for a clarification that ensures that the responsible parties are clearly indicated in the contracts as well as what should happen when travel operators and travel agencies fail to perform.

COM asked MS on their views of a potential inclusion of a right to withdraw from a package travel contract in certain situations. No MS expressed support for such a right. However, later in the meeting on "other business", BU argued that this topic should be looked into.

### **SESSION 3 – Policy options, level of harmonisation, "package travel"-label**

Several MS (BE, DK, SE, ES, BU, UK) underlined the need for a legislative initiative.

With regard to a Package Travel Label/Logo, NO noted that they have an insolvency protection scheme in their country which is linked to a PT label. In MT, tour operators were granted a quality mark on a voluntary basis, as long as they satisfy a set of given criteria over a period of time. IE noted that one trade organisation in Ireland has a label; however, they believe that a more effective approach (for monitoring reasons) would be for each specific contract to state whether or not it was covered by the PTD. UK explained that their legislation requires licence holders to display an ATOL sign and ATOL number; however, the UK is considering (consulting on) extending this to specific transactions. The UK does not, however, want another mark to replace the established marks. CZ was positive to the idea of a label or logo based on parallel experiences with food, electronics and accommodation; LU took an opposite position to the CZ.

With regard to the level of harmonisation, FR, NO, BE, AT, ES and DE argued against or were sceptical towards full harmonisation (except on technical matters). Similarly FI and DK expressed doubts that full harmonisation would be possible, taking into account the contract law and tort law provisions in individual MS. On the other hand LT supported full harmonisation.

On questions relating to sanctions, BE suggested that civil or penal sanctions could be introduced. UK were of the same opinion, but added that the issue of sanctions was best left to MS to decide. BE added that Alternative Dispute Resolution bodies exist and work well in BE not only in mediating, but also preventing, disputes. In their opinion such bodies are a useful complement to legislation.

### **SESSION 4 – Insolvency protection**

With regard to MS opinion on the current functioning of insolvency schemes, UK, BE, LT indicated that they were in favour of insolvency schemes. The UK and EE noted that there was greater scope for harmonisation, perhaps, by setting minimum requirements and they would also support actions aimed towards mutual recognition. Supported by SE, they came out against a pan European scheme. HU also noted that care needs to be taken under the current economic climate where banks and insurance companies appear to be reluctant to carry travel related risks and are themselves at risk of going bankrupt.

With regard to bankruptcy protection for standalone air tickets, IE noted that Directive 1008/2008 on airline licensing exists and that perhaps, we need to see how this is being implemented before adding further regulation to an over-regulated airline sector. They are not in favour of increasing the administrative burden for airlines, especially when packages are not concerned. Similarly, DE and UK were sceptical about introducing bankruptcy protection for standalone air tickets. On the other hand BE noted that although airlines are subject to a lot of legislation at present, the fairness of tour operators having to incur costs for bankruptcy protection while airlines do not will have to be considered.

## **OTHER BUSINESS**

COM informed that a public consultation will be launched in the end of November where MS are highly encouraged to participate. COM also noted that there will be another stakeholder conference in March/April 2010 and stakeholders will be invited to participate. COM also informed that the consumer detriment study on dynamic packages were being finalised and will be published at the end of November 2009. COM also explained that the Impact Assessment is planned to be concluded around mid-2010 and submitted to the IA Board in July/August 2010 following which a proposal could be adopted in Oct/Nov 2010 – taking into account of course the priorities of the new Commissioner.