

TourismAlliance

the voice of tourism

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THE EUROPEAN COMMISSION'S PROPOSAL FOR A NEW DIRECTIVE ON PACKAGE TRAVEL AND ASSISTED TRAVEL ARRANGEMENTS

Introduction

1. The Tourism Alliance was established in 2001 as the voice of the UK tourism industry and comprises 50 tourism industry trade and marketing associations that together represent some 200,000 business of all sizes throughout the UK (see Appendix 1 for membership list). The Tourism Alliance's mandate is to work with Government on issues relevant to the growth and development of tourism and its contribution to the economy. It is therefore responding to this consultation in that capacity.

Background

2. The UK's tourism industry is one of the largest and fastest growing sectors of the economy. Last year inbound tourism receipts increased by 3.6% to £18.64bn and, with the successful hosting of the 2012 Olympics, data from the ONS's International Passenger Survey shows that tourism receipts are currently tracking at 11% above the same period in 2012 and should exceed £20bn for the full year.
3. Domestic tourism is also growing strongly with revenue increasing by an average of 8% per annum over the last 4 years. Together, domestic overnight tourism and day visits now contribute over £80bn per annum to the UK economy and employ approx. 1.6m people. The strong growth of the tourism industry is reflected in a recent Deloitte report for VisitBritain that indicates that the tourism industry has provided a third of all additional jobs in the UK economy over the past two years and is therefore a major factor in the UK's economic recovery.
4. However, despite the strong performance of the tourism industry there are a number of issues that prevent the industry growing at an even faster rate and providing greater economic and social benefits for the UK economy. One of the main issues is that the majority of UK tourism businesses are SMEs, which are particularly susceptible to regulatory burden. The Office for National Statistics, in their 2012 publication *The Geography of Tourism Employment*, calculated that there are 249,000 tourism businesses in the UK. A further in-depth study of tourism businesses in the UK by People 1st (the sector skills council for the tourism and

hospitality sectors) calculates that of these businesses, over 80% are classified as micro businesses due to employing fewer than 10 people.

5. These businesses have considerable difficulty complying with the Package Travel Directive due to two main requirements:
 - a. The need for the business to be bonded or for customer's funds to be held in a trust account
 - b. The requirement for the business that sells the product to be legally responsible for all components of the package.
6. However, there is a fundamental problem associated with domestic tourism development and that is the inability of small domestic tourism businesses to work together to provide value-added products to customers due to the requirements of the Package Travel Directive.
7. As a result, the 2012 GB Tourism Survey notes that, of 126m tourism trips undertaken in the UK last year, only 5.2m (4.1%) were taken as packages. This very low take-up of packages was highlighted in the UK Government's Tourism Policy which was published in March 2011. In the Policy, the Government committed to forming *"an industry taskforce, led by senior figures in the visitor economy, to evaluate these issues and consider whether structural changes might unlock additional sources of value or not."*
8. This taskforce concluded that the reason for the very low take-up of package holidays in the UK was a combination of two factors: that over 80% of domestic tourists use their own car to take a holiday (limiting the opportunity for tour operators to provide travel inclusive packages) and that the PTD restricts the number of "accommodation" and "other tourism services" packages that businesses within a destination provide.
9. It should be noted that while this submission relates specifically to the need to limit the Package Travel Directive to products that include travel, the Tourism Alliance supports ABTA's detailed submission on the other aspects of the consultation. It is important that there is clarity and consistency when customers are purchasing package travel regardless as to how the package to constructed.

Responses to Specific Questions

Question 6

Do you agree that it would meet our general domestic objective if the Government could argue that the only qualifier for "other tourist services" to be relevant should be that it accounts for not less than 20% of the total cost of the arrangement? Does such an approach rise to further ambiguity as to precisely what the 20% relates to and how it should be calculated?

10. The Tourism Alliance disagrees with the view that the general domestic objective can effectively be achieved by arguing that "other tourist service" should only be considered to be a component of a package if it constitutes more than 20% of the total cost of a package.
11. There are two main problems with adopting this approach. This first of which is that an approach based on the proportion of the overall cost of a package will create an uneven playing field which will favour high-cost accommodation providers over low-cost accommodation providers.

12. Take, for example, two accommodation businesses located beside a golf course where a round of golf costs £35. One of the accommodation businesses is a 4 star country hotel that charges £280 for a weekend stay whereas the other is a B&B that charges £120 for a weekend stay.
13. At the 20% level, a high-end country hotel could provide customers with a package that includes £70 of Other Tourism Services (ie., two rounds on golf) without having to comply with the requirements of the Package Travel Directive. However, the B&B is only able to include “other tourism services” to the value of £30 before having to comply with the PTD. As this is below the £35 cost of a round of golf, the B&B operator cannot provide their customers with any golfing product outside the PTD.
14. This means that larger, more expensive accommodation providers would have a competitive advantage over those that operate at the value end of the market. Moreover, it means that customers that can afford luxury breaks would be able to access deals that are not available to customers on a tighter budget. We believe that this is simply not equitable to either businesses or consumers.
15. The second problem with this approach is that, as packages are, by definition, a combination of products sold for a single inclusive price. This means that it is difficult for the consumer to determine whether the 20% limit has been reached and therefore whether or not the product that they are purchasing is protected under the PTD. Therefore, introducing a somewhat arbitrary cost level at which two products become a package is counter to one of the main aims of revising the PTD – which is to increase clarity among consumers as to when they are protected.
16. If, and only if, there were no other option but to pursue this approach, our view is that the definition of “significant” would have to be increased from the proposed 20% level to at least 50% of the cost of the package. While this would still mean that the more expensive accommodation providers were still able to offer a greater level of “other tourist services” to their customers, at least smaller value-led accommodation providers would be able to provide a reasonable selection of such “other tourist services” to their customers.

Question 7

Alternatively, do you agree that the Government should argue for an exemption or for a Member State option to exempt domestic packages which consist just of accommodation and other tourist services?

17. The Tourism Alliance firmly supports the Government’s position to amend the definition of a “package” and an “assisted travel arrangement” so as to require the “carriage of passengers” as a mandatory element. Failing that, we fully support the view that the Government should argue for an exemption or an opt-out to exempt packages that consist of just accommodation and other tourist service. There are a range of arguments to support this position. These include:
18. **There is no evidence in the European Commissions Impact Assessment that there is a need to maintain the inclusion of this type of product in the PTD**
19. The Package Travel Directive was introduced to resolve two main issues – the repatriation of customers from a destination should a tour operator become insolvent and to provide the

customer with a single easily identifiable organisation in the country in which the package was purchased that is responsible for all aspects of the package's performance.

20. The Tourism Alliance believes that the Impact Assessment associated with the European Commission's proposals to revise the Package Travel Directive provides valid reasons to maintain and revise the Package Travel Directive so that it can continue to provide these protections for people undertaking travel overseas or where The rationale for maintaining the
21. However, it is noticeable that the European Commission's Impact Assessment only considers the situation where the provision of transport is part of a package. There is no assessment of whether is a significant consumer protection problem associated with the sale of products that do not include transport but are simply a combination of accommodation and "other tourism services".
22. Moreover, as there is no assessment as to whether there is a need for products consisting of just "accommodation" and "other tourism services" to be included in the Package Travel Directive, the Impact Assessment contains no analysis on either impact the proposal will have on businesses that wish to provide these products or whether requiring these businesses to comply with the PTD is proportionate response to the perceived problem.
23. It is therefore our view that, unless the European Commission can identify and quality a significant problem associated with the sale of products that do not include transport, and demonstrate that the requirements of the PTD are a valid and proportionate response to such a problem, then these products should be removed from the bounds of the current proposal.
24. As evidence for our view that the inclusion of value-added products in the PTD is unwarranted, the Tourism Alliance has undertaken an analysis of bankruptcies with the UK accommodation sector. This shows that of the 19,255 businesses in the accommodation sector, an average of just seven businesses per annum filed for insolvency over the last three years. Considering that the UK economy has been in recession during this period and that SMEs (who make up the vast majority of accommodation businesses) have had significant difficulties in gaining loans from banks, an insolvency rate of just 0.036% is considerably lower than the rate for UK businesses as a whole which was 0.08% over this period.
25. **That, as there is no evidence of the need for regulation in the case of these products, the PTD is an unnecessary and disproportionate response**
26. The cost to small domestic tourism businesses of being unable to provide value added products to customers due to the PTD is considerable.
27. In research undertaken by VisitEngland, people were presented with a selection of 16 different types of offer and asked them how much the different offers would encourage them to take additional holiday trips in the UK. The research found that 27% of people would take an additional holidays in the UK if value-added products were readily available (the example product used in the study was a stay at a hotel with tickets to the theatre).
28. In 2012, UK residents undertook 57.7m holidays in UK and spent £13.8bn. Therefore, if we assume that the 27% of people who said that they would take more holidays in the UK if value added products were readily available took just one additional break, this would generate over £3.7bn per annum in additional expenditure for the economy.

29. This means that the Package Travel Directive is currently imposing costs of £3.7bn per annum on the 249,000 businesses that comprise the UK tourism industry - an average cost per business of almost £15,000 per annum.
30. We believe that this level of cost per business, when considered alongside the lack of evidence in the European Commission's Impact Assessment as to the need for non-travel products to be included in the Directive, demonstrates that the PTD is an unnecessary and disproportionate regulatory response.
31. Further, a new study by Deloitte for VisitBritain, *Tourism Jobs and Growth: the economic contribution of the tourism economy in the UK*, calculates that the marginal cost of employment in the tourism industry is £54,000 – ie., one new job is created for every of additional £54,000 of expenditure by tourists. Using this figure, removing value-added products from the requirements of the PTD can be expected to create 68,000 additional jobs for the UK economy.
32. **That existing consumer protection legislation means that there is no dis-benefit to consumers if these products are exempted from the PTD**
33. As mentioned previously, the main purposes of the PTD are to ensure that customers are able to be repatriated should their tour operator go into receivership while they are on holiday and to provide a single entity responsible for all aspects of the tour that is located in the country in which the package was purchased.
34. However, these problems do not occur where travel is not part of the package. For example, the customer does not need to be repatriated when they are providing their own transport to a destination and, as the vast majority of these products would be purchased by domestic tourists, there is no need for one company to be legally responsible for all components of the product (ie., there is no disbenefit to the customer in the partners providing the product being separately liable for the component of the product that they provide). In those circumstances where the product is purchased by someone in a different country, there is still no disbenefit to the consumer as they would have to seek redress in an overseas court regardless of whether or not the product was covered by the PTD.
35. We believe that the existing consumer protection legislation – notably the Consumer Protection from Unfair Trading Regulations 2008 and the forthcoming Consumer Rights Bill are sufficiently strong to provide adequate protection for consumers purchasing value added products that do not include travel.
36. Furthermore, our discussions with Consumer rights groups on our proposal to limit the PTD to packages that include transportation have not highlighted any reason as to why the added protections of the PTD were necessary for value-added products.

Conclusion

37. As stated at the outset, the tourism industry is at the forefront of the UK's economic recovery and is strongly placed to provide continued increases in revenue and employment. The industry is also supportive of moves by the European Commission to revise and update the Package Travel Directive so that it provides people undertaking package holidays with adequate protection.

38. However, in doing so, simply logic dictates that, for a product to be classified as Package Travel, it must include travel. We strongly believe that, as no justification or evidence has been presented by the European Commission as to why products that don't contain travel should come under the bounds of the Package Travel Directive, the definition of a package needs to be recast so that the focus of the Directive is on resolving the identified problems associated with package holidays.
39. And, while there is no evidence to support the inclusion of products that do not include transport in the Directive, there is significant evidence that their current inclusion is causing considerable damage to small domestic tourism businesses who are severely impeded in being able to provide the value added products that customers want.
40. This current situation is detrimental to both businesses and customers and is providing an unnecessary barrier to the ability of the UK domestic tourism industry to provide economic growth and employment for the UK economy.
41. If the Tourism Alliance, or its members, can be of any assistance in providing further evidence or expanding or clarifying tourism-related issues, please feel free to contact our Policy Director, Kurt Janson, at the address below.

Yours sincerely



Mary Rance

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Appendix 1: Tourism Alliance Members

ABTA - The Travel Association
ALMR
ALVA
ANTOR
Association for Tourism in Higher Education
BALPPA
Bed & Breakfast Association
British Beer & Pub Association
British Destinations
British Educational Travel Association
British Holiday & Home Parks Association
British Hospitality Association
British Marine Federation
Business in Sport & Leisure
Business Visits & Events Partnership
Camping & Caravanning Club
Confederation of Passenger Transport
Country Land and Business Association
Cumbria Tourism
EASCO
English UK
European Tour Operators Association
Farm Stay UK
Group Travel Business Forum
Heritage Railway Association
Historic Houses Association
Historic Royal Palaces
Holiday Centres Association
Institute of Tourist Guiding
Liverpool City Region LEP
Marketing Manchester
National Caravan Council
National Trust
New Forest Tourism
Outdoor Industries Assiation
Resort Development Organisation
South West Tourism Alliance
The Caravan Club
The Tourism Alliance Brighton and Hove
The Tourism Society
Tourism For All
Tourism South East
UKInbound
Visit Cornwall
Visit Kent
Visit Wiltshire
Visitor Attractions Group
Welcome to Yorkshire
Wyndham Worldwide

Observers

CBI
Local Government Association
VisitEngland
VisitBritain