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European Commissioner for Consumer Protection

## **Opening Speech at the Bi-Annual Meeting of ECTAA**

*Check Against Delivery*  
*Seul le texte prononcé fait foi*  
*Es gilt das gesprochene Wort*

**Sofia, 27 May 2008**

## **Introduction**

It is a pleasure for me to be here today when ECTAA members meet to address issues of importance for the European travel market. I am particularly happy to meet with you here in Bulgaria, my home country which has so much to offer holidaymakers from all over Europe.

I will use this occasion to update you on the Commission's ongoing work in the field of consumer protection. I should say from the outset that there is a lot that concerns your sector:

- The Review of the consumer acquis,
- the upcoming revision of the Package Travel Directive.

It is no coincidence that both consumer legislation and the travel and holiday sector are undergoing important changes : We live in a time of rapid change.

Technological development continues to forge ahead – and **consumer behaviour continues to evolve**. The internet has made it possible for consumers to easily compare market offers and get access to all kinds of information, and traders can reach new groups of customers and offer new kinds of services.

Many sectors have been affected by the growth of e-commerce, but the impact on the travel business has been particularly huge. Travel habits have changed: It has become affordable to go far away; within Europe there are less border controls and restrictions to travel and there has been a remarkable growth among retired Europeans which are becoming increasingly mobile and eager to travel.

Turning now to the consumer legislation, the EU consumer contract legislation that has been in place for over 10-20 years. It has provided a set of consumer protection rules applicable throughout the Union.

This legislation is in many ways outdated. When it was drafted no one thought about low cost airlines, interlinked web pages, holiday information on web pages instead of in brochures, e-auctions or holiday clubs.

In addition this legislation was based on minimum harmonisation, with the result that its transposition across the Member States has varied widely.

This divergence between the national rules is problematic:

- Problematic for companies since they have to adapt their sales methods, conditions and practices to each individual national market.
- Problematic for consumers since they cannot be sure of which rights they have in other countries.

## **1. Review of the Consumer Acquis**

The current Review of the Consumer Acquis aims to harmonise certain key elements of Consumer Contract Law.

If the on-going impact assessment confirms the need for a legislative initiative, I intend, later this year, to propose to the College of Commissioners the adoption of a proposal for a new Directive on Consumer Contractual Rights.

The aim would be that the Framework Directive incorporates at least four existing directives into one fully harmonised, coherent legislative instrument.

It is still too early to enter into details what the new Directive might include. Just to give some examples of issues that could be harmonised in the future:

We are right now assessing the feasibility of including in the Framework Directive provisions on information requirements, the right of withdrawal for distance selling and direct selling contracts, unfair contract terms as well as rules on consumer sales including on delivery and the passing of risk.

## **2. Package Travel**

Some of the issues treated in the Framework Directive are certainly of relevance for the travel business, for instance the rules on contract terms.

However, I am aware that issues like for example the right of withdrawal do not apply to many travel services. Sector-specific legislation may therefore be of particular interest to the travel business. One important piece of legislation is of course the Package Travel Directive.

I said earlier that some of the Consumer Acquis is not up to date due to market changes and that there are divergences between national laws.

After having published last year a working document on the Package Travel Directive for public consultation, the Commission has been able to conclude from the responses submitted that this is certainly true for that Directive as well.

There is a clear demand from all respondents for a revision in principle of the Directive. Even if there is no clear consensus on *what* should be done, everyone agrees that something *has to be done!*

I am happy to announce today that the Commission will shortly start the preparatory work which should lead to a revision of the Package Travel Directive.

We count on initiating preparatory studies already this year. The impact assessment work will start next year. Subject to the outcome of that impact assessment, a proposal could be presented by the Commission in 2010.

It is not an easy exercise we have in front of us which is why the preparatory work is so important. I am counting on your support and help during the years to come when we will need to collect data for the impact assessment.

Our recent experiences of the work with the Timeshare Directive and the Review of the Consumer Acquis show how important it is with stakeholder dialogue and input from all interested parties.

So what are the issues we need to consider when revising the Directive?

1. Let me start with the scope. The Package Travel Directive covers - as you are aware - combinations of either transport and accommodation, or transport / accommodation and another leisure service, such as an excursion. The trip should last longer than 24 hours or encompass an overnight stay and the organiser must organise trips more frequently than only occasionally.

Following case law from the European Court of Justice, so called "dynamic packaging", i.e. where a travel package is put together by a travel agency or tour operator at the demand of the consumer, falls within the scope of the Directive.

However, this is not clear from the wording of the Directive and the outcome of the consultation shows that there are a lot of uncertainties as to what is covered and what is not covered by the Directive.

What happens for instance when a travel agency, after having sold transportation to a consumer via its website, then provides a link to another web page offering

accommodation? At what point in time is it a matter of two separate contracts and when is it a package? This is not always clear.

Given that the Package Travel Directive is a minimum harmonisation directive, some Member States apply the rule that a travel package only falls within the scope of the legislation if it lasts longer than 24 hours or overnight, whereas others do not.

In some Member States occasional organisers, like churches or third age organisations, are covered - in others they are not. This is not satisfactory from an Internal Market point of view and certainly does not make life easy for the travel business.

2. Secondly, information requirements specific to package travel need to be looked into. The Directive provides particular rules on the content of brochures, but does not mention for instance web pages, often the main means for travel agencies and organisers to market their products. And Member States have added specific national information requirements so that organisers may not be able to use the same brochures for different markets.

3. Thirdly, the liability issue needs to be considered. Today it is not made clear in the Directive how the responsibility is divided between the organiser and the travel agent for matters occurring before and after departure. The Member States apply the Directive differently. There may be a need for clarification.

4. Fourthly, pricing. Prices in the travel business are changing constant nowadays. Many external factors play a role, such as currency, oil prices, security fees and taxes. For traders it may be difficult to guarantee prices a long time in advance and bear the whole risk 20 days, and in some Member States even longer, before departure.

For consumers, on the other hand, a holiday, maybe in particular to far away destinations which may be quite expensive, is often a major investment and they may book long in advance. The consumers must feel safe and be assured that the conditions and price for their holiday don't suddenly change. We have to strike the right balance here.

5. Finally - to limit myself to five issues although there are many other that need to be looked into as well - we have to consider if there is a need to adapt or clarify the requirement in the Directive for a financial guarantee in case of insolvency to ensure repatriation and reimbursement to the travellers concerned.

This is an issue closely related to the scope of the Directive; who should provide the guarantee and who should not? The aim must be to protect consumers while ensuring the same treatment of actors selling similar products under similar conditions. The consultation showed that there is not much interest for an EU

wide guarantee system, but that the practical functioning of the present system and its implications need to be considered.

There are many different ideas on how to revise the Directive. Many would be content with clarification and updating so that the Directive better reflects today's reality and practical application. Others ask for more radical changes.

The Commission has no view on this at this point and will wait for the outcome of the studies that will be carried out.

The aim is to strike the right balance between on the one hand the protection of consumers, ensuring that they get sufficient information and protection in case of changes of their travel package before and after departure, and on the other hand a fair and transparent environment for the travel business where it is easier to sell cross border.

Again, I count on you for input on the revision of the Directive during the coming years.

## **Conclusion**

After this exposé I hope you will agree that we find ourselves at an interesting and challenging point, in particular for the travel business.

We are taking important steps to simplify life for business, aiming at having consistent legislation all over the EU to facilitate cross border activities.

We wish to keep a high level of consumer protection, adapted to today's and tomorrow's needs and at the same time create a fair business environment for business.

The steps we are taking will boost European competitiveness - we find ourselves at a truly pivotal moment, taking firm strides towards a properly functioning Internal Market, to the benefit of both consumers and business.

Thank you.