

## **Summary**

The European Commission [published](#) its New Deal for Consumers proposals, including stricter penalties for breaches of consumer law and the introduction of an Injunctions Directive, enabling the launch of collective redress actions by qualified entities.

Talks on the EU budget began formally on 2<sup>nd</sup> May, after the presentation of the proposal by Budget Commissioner Günther Oettinger.

The European Parliament and Council reached political agreement on the ETIAS proposal, paving the way for formal adoption later this year.

Trilogues on the Accessibility Act continued, with discussions focusing on the less controversial subjects. There is pressure by certain MEPs to include tourism within the scope of the proposal, with the Council not in favour of this option.

Finally, ISO has continued its work on the development of an accessibility standard for tourism services.

## General

### **Commission publishes New Deal for Consumers**

Source: [European Commission](#) – 11.04.2018

On 11<sup>th</sup> April, the European Commission published its proposals making up the New Deal for Consumers, which included an update of the Consumer Law Directives (substantive law) and a new Injunctions Directive (procedural law).

The key elements of the proposals include higher penalties for breaches of consumer law (up to 4% of a trader's annual turnover) and changes in obligations regarding the right of withdrawal. The Injunctions Directive introduces class-action lawsuits which can be launched by qualified entities in Member States.

### **Substantive law ([Directive on better enforcement and modernisation of EU consumer protection rules](#))**

#### Penalties

- MS can decide on their own rules on penalties applicable to infringements of national provisions adopted as a result of this Directive. The Directive provides criteria for MS to take into consideration when deciding whether to impose a penalty and at what level (such as number of consumers affected, nature, gravity and duration of infringement, whether the infringement was intentional etc.).
- Annual turnover and net profits shall also be taken into account when imposing a fine. MS have the possibility to impose a fine, the maximum amount of which shall be 4% of the trader's annual turnover in all the Member States concerned.

#### Removal of certain obligations regarding right of withdrawal

- Traders will not have to:
  - i. accept the right of withdrawal where a consumer has made actual use of an ordered good instead of only trying it out;
  - ii. reimburse the consumer before receiving the returned goods back.

#### Right to damages when there is no contract

- When harmed by unfair commercial practices consumers will have the right to terminate and the right to damages when there is no contract concluded.

#### Transparency

- Transparency requirements for online marketplaces under the Consumer Rights Directive (CRD) – ***applicable if parks use online marketplaces for distribution:***
  - i. the criteria used for ranking offers: “the main parameters determining ranking of offers presented to the consumer as result of his search query on the online marketplace”;
  - ii. whether the 3<sup>rd</sup> party offering the product is a trader or not;
  - iii. whether EU consumer law is applicable to the contract;
  - iv. if the contract is concluded with a trader, which trader is responsible for ensuring compliance with consumer rights.
- Introduction of a definition of “online marketplaces” under CRD: “a service provider which allows consumers to conclude online contracts with traders and consumers on the online marketplace’s online interface as defined in Regulation (EU) 2018/302”.
- The Annex of the Unfair Commercial Practices Directive (UCPD) is amended to include the provision of information to a consumer’s online search query, to promote a product where a trader has paid for the promotion without making that clear that this content is paid for.

#### Free services

- Extends the CRD’s scope to include digital services for which consumers provide personal data, instead of paying with money (both the right to pre-contractual information and to cancel the contract within 14 days becomes applicable).

#### Procedural law ([Directive on representative actions for the protection of the collective interests of consumers](#))

- Criteria for qualified entities empowered to bring representative actions are that the entity is properly constituted according to the law of a Member State; has a legitimate interest in ensuring provisions of law covered by this Directive are complied with; and has a non-profit character.
- Qualified entities can be designated on an ad hoc basis for a specific representative action.
- Qualified entities do not need to obtain the mandate of the individual consumers concerned or provide proof of actual loss or damage on the part of the consumers concerned or of intention or negligence on the part of the trader.
- Representative entities can be empowered to seek all or some of the measures provided for in this Directive (e.g. ask for a harmful practice to be stopped, but not seek compensation).

- Qualified entities must, at the start of an action, declare the source of the funds used for its activity in general and the funds that it uses to support the action.
- If an action is funded by a third party, MS must ensure that the third party is not allowed to influence decisions of the qualified entity in the context of a representative action, including on settlements; and to provide financing for a collective action against a defendant who is a competitor of the fund provider or against a defendant on whom the fund provider is dependant.

The full list of legislation covered by this Directive can be found in this [Annex](#).

### Entry into force

**Substantive law:** Member States shall adopt and publish, by 18 months after adoption at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall apply those provisions from 6 months after transposition deadline.

**Procedural law:** Member States shall adopt and publish, by [18 months from the date of entry into force of this Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. Those provisions shall apply from [6 months after the transposition deadline]. Infringements started before the application of this Directive shall not be covered by it.

***The New Deal for Consumers proposals will now be examined by the European Parliament and Council of the EU. The Commission has urged the legislators to move rapidly on this dossier, which is expected to feature heavily in the campaigning for the 2019 European Parliament elections.***

### Tourism and culture

#### **Political agreement on ETIAS reached**

Source: [European Commission](#) – 25.04.2018

On 25<sup>th</sup> April the European Parliament and the Council reached a political agreement on the European Travel Information and Authorisation System (ETIAS) proposal. Following the agreement, the proposal will now have to be formally adopted by the Parliament and the Council, with ETIAS becoming operational by 2021. The Parliament is expected to vote on the proposal in plenary on 2<sup>nd</sup> July. The provisional agreement that the authorization fee should be set at €7 (mentioned in previous intelligence reports) has not been changed.

### General

#### **Talks on EU budget begin**

Source: [Politico](#) – 23.04.2018

On 2<sup>nd</sup> May Budget Commissioner Günther Oettinger presented his proposal for the 2021-2027 EU budget (Multi-annual Financial Framework). The upcoming negotiations are expected to be difficult, as budget discussions have usually been, but further compounded by the expected shortfall of €12-€13 billion annually due to Brexit.

The European Travel Commission is working on a campaign on behalf of the European Tourism Manifesto to ask for more budget for tourism. More specifically, the campaign calls for €20 billion post-2020

### **Accessibility Act – update from trilogues**

Source: Intelligence gathering

Trilogue negotiations on the Accessibility Act began in March and have continued on a monthly basis, with meetings scheduled until June. The less controversial topics have been addressed first.

As you might recall, the European Parliament was keen for tourism to be included in the scope of the proposal, with the Council opting not to include mentions of tourism.

Intelligence suggests that some MEPs are pushing for tourism to be included in the scope of the Directive. The Council, although broadly receptive to the tourism sector's arguments, does not have a strong position in favour or against on this matter.

### **ISO standard for tourism**

Source: Intelligence gathering

ISO is currently working to develop a standard for accessibility for the tourism sector (ISO/WD 21902 Accessible tourism for all – Requirements and recommendations). Work is ongoing at ISO TC 228 Tourism and related services (Plenary) and of the Working Group 14 Accessible tourism

The standard will propose a number of requirements covering all aspects of the tourism industry and will also have sectoral aspects, including amusement parks. The industry is working to make as many of these requirements as possible voluntary.

IAAPA is listed as a liaison organization in the development of the standard. The next meeting of the combined TC and WG group meetings will take place in Buenos Aires on the week 7<sup>th</sup> – 11<sup>th</sup> May 2018.

### **EU events**

- 17-18 May - Event on European cultural heritage, Brussels

- 23 May 2018 - International Forum on Tourism and Energy under the Bulgarian Presidency (Sofia)
- 27 Sep - World Tourism Day & European Tourism Day, Brussels
- 1-2 Oct - ETF in Vienna