

PRESS RELEASE – for immediate release

ETTSA Guidance to help address unacceptable legal uncertainty caused by Package Travel Directive

Brussels, 2 July 2018

[Directive 2015/2302/EU](#) of 25 November 2015 on package travel and linked travel arrangements applies from the 1st of July 2018, but despite two years for Member States to transpose the Directive into law and a further 6 months to prepare for new legislation, fundamental questions remain about the scope of so-called Linked Travel Arrangements (LTAs).

LTAs are a vague concept in the Directive which industry experts fear will be unenforceable and potentially misleading for consumers. The legislation raises a myriad of questions for industry operators, in particular under what circumstances they would be considered to be “facilitating in a targeted manner” and therefore part of a Linked Travel Arrangement, or what constitutes “a single visit”.

The original Directive is beset by contradictions which have been reflected in national transposition measures, in particular in relation to the status of relevant online advertising which would be out of scope if “using cookies or metadata” but if “facilitating in a targeted manner” the booking of another travel product, would be in scope. Neither the Directive nor national transposition measures have taken a clear stance on defining the difference.

In an effort to provide clarity to the industry, the European Technology Travel Services Association (ETTSA) has published its own detailed guidance today which it hopes will help businesses to prepare and give enforcement authorities a clear reference point.

Commenting on the situation, Christoph Klenner, ETTSA Secretary General, said: “As responsible operators we want to be able to comply with the law, unfortunately the Directive and the available official advice makes that extremely difficult. The lack of clarity means an unacceptable level of legal uncertainty which we have sought to address with the launch of our own guidance.

“The approach to implementation of these requirements which we have published today will produce meaningful outcomes for consumers and clarity for business. We urge Member States to now use this as a reference point as they enforce new requirements”.

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Notes to editors

The European Technology and Travel Services Association represents and promotes the interests of travel technology companies in Europe, including global distribution systems (GDSs), online travel platforms and metasearch sites. The association, based in Brussels, encourages and supports full transparency, fair competition and consumer choice in the travel distribution chain.

ETTSA's industry guidance on the Package Travel Directive can be downloaded at: <http://www.etsa.eu/publications>

Examples of Specific issues that ETTSA's guidance seeks to address includes:

Interpreting facilitation “in a targeted manner”: The text of the Package Travel Directive is clear that in order to understand whether a Linked Travel Arrangement, as described in sub-paragraph (b) of article 3.5, has been created, then an assessment has to be made as to whether the first trader has facilitated “in a targeted manner” a second transaction with another trader. There is only one real world situation where a trader will facilitate “in a targeted manner” a second transaction from another trader and that is when they provide that trader with the travel destination and dates of the customer to enable them to make a real bookable offer e.g. in the case of a hotel with a specific room rate for the night on which the customer will be staying at the destination. Targeted but relevant advertising served by a third party on a travel website would not be in scope, since targeting is automated based on cookies which are unique to the customer's computer and the first trader will have no knowledge of the content of that advertising.

The Standard Information Form: Our concern here is that consumers are not misled. Article 19 requires that traders facilitating Linked Travel Arrangements provide the appropriate insolvency protection for the refund of all payments they receive from consumers. However, a large proportion of online bookings made through intermediaries involve the receipt of no payments from consumers, instead funds go straight to the airline in the case of a flight or are paid on check out at a hotel. The Standard Information Form takes no account of this, instead the full text obligates operators to provide the consumer with an assurance that insolvency protection is in place. This obligation is backed by a stiff penalty clause (article 19.3) stating that where the trader “facilitating a linked travel arrangement” fails to use the Standard Information Form then it will be treated as a Package.

It would be an unfortunate outcome of this legislation if operators were forced to give consumers false information. Adaptation should be possible where the alternative would risk misleading consumers and indeed the final sentence of Article 19.2 of the Directive provides the opportunity to do this when it states that: “In order to comply with this paragraph, the trader facilitating a linked travel arrangement shall provide the traveler with that information by means of the relevant standard form set out in Annex II, or, where the particular type of linked travel arrangement is not covered by any of the forms set out in that Annex, provide the information contained therein”.