

# THE PACKAGE TRAVEL DIRECTIVE

How can we make it fit  
for purpose?

**eu travel tech**

**ECTAA** THE EUROPEAN TRAVEL AGENTS'  
AND TOUR OPERATORS' ASSOCIATIONS

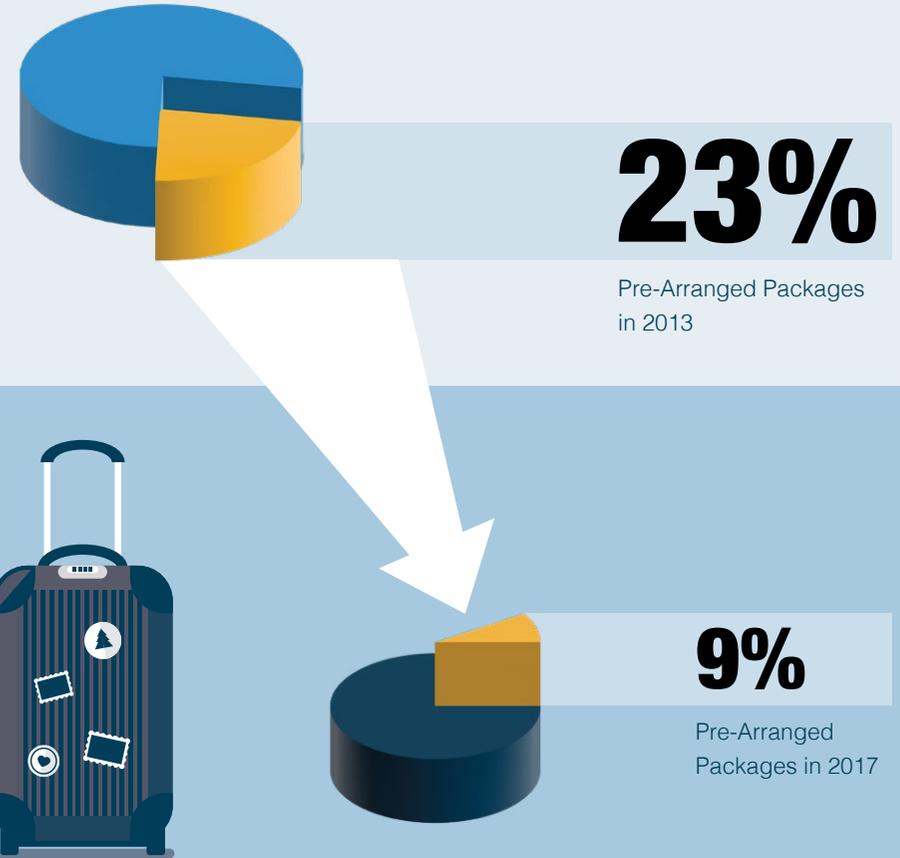
**W**e all enjoy travelling when the opportunity presents itself! Whether we are looking for destination ideas, convenient flights, trustworthy hotels or activities to fill our time, we often turn to travel professionals for help in navigating the wide range of options available to us.

Package organisers include travel agents and tour operators. Travel agents help us find travel solutions, such as a simple hotel or a flight for our journey, but they can also plan complex travel, arranging all-inclusive packages that provide

everything we need for a successful getaway. In these cases, agents offer us a combination of travel services, also known as a 'package'. It can include: a combination of flight tickets, hotels, rental cars, as well as guided tours of places such as museums, archaeological sites or even amusement parks. Tour operators also combine different services to offer us a prearranged, fully organised holiday. When we use a travel agent or tour operator to book two or more different services, we have in effect purchased a package.

# MARKET SHARE OF PRE-ARRANGED PACKAGE TRAVEL

% of travel products sold in the EU<sup>1</sup>



The increased costs and obligations related to travel packages are forcing agencies and operators to de-package travel and only offer standalone travel services. This means increased costs and less protection for consumers, as **Package Travel Directive (PTD)** does not apply to standalone services.

# BOOKING A TYPICAL PACKAGE

Alice, a bookdealer from Ghent, wants to visit Morocco with her daughter.

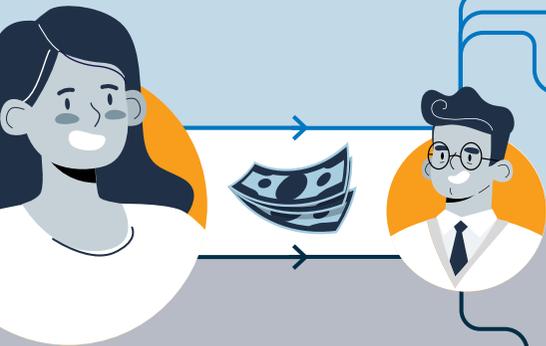
In May 2021, she contacts her local travel agent Jan, who runs a small travel agency with four employees and asks him to arrange a trip for late October. Jan offers Alice a five-day trip to Marrakesh from 21 to 26 October for two people for **€2,000**.

## The trip includes:

	two return flights from Brussels Airport to Marrakesh Menara Airport with Fantasy Airlines	€	400
	five nights in a 4-star hotel in la Medina	€	1,200
	a desert trip on 23 October	€	300
	Jan's fee	€	100

## DEPOSIT

€ 800



 Suppliers such as hotels and airlines require prepayments from travel agents.

-  € 400 for flight tickets full fare due upfront
-  € 300 for the hotel
-  € 100 for a desert excursion

Two weeks before her trip, Jan asks Alice to pay the **remaining €1,200**, which goes towards:

## COMPLETING THE PAYMENT

€ 1200

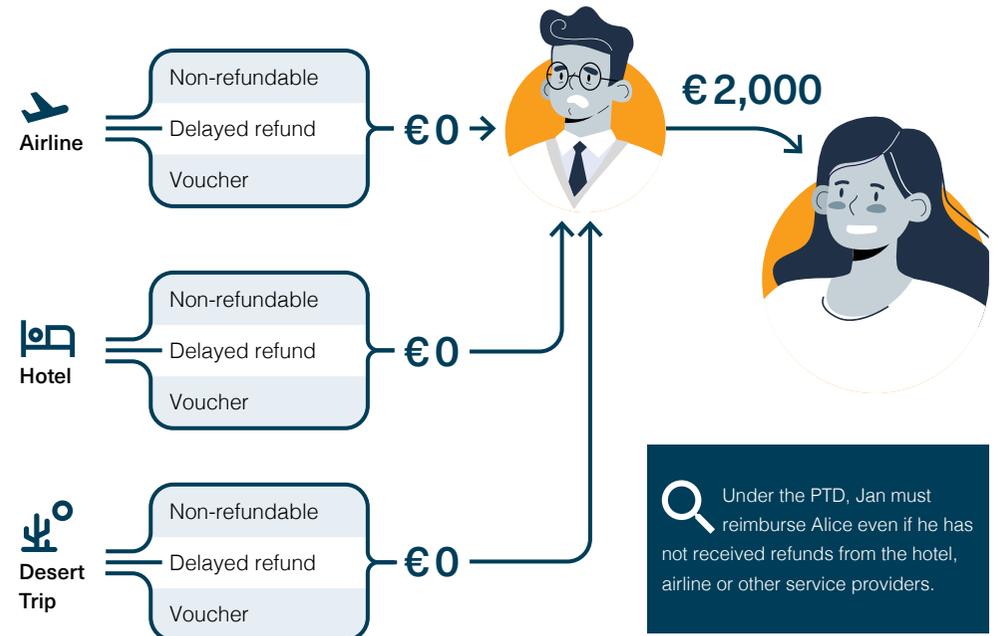
-  € 100 agency service fee to also cover agency salaries etc.
-  € 900 for the hotel
-  € 200 for the desert trip

# ...IN COVID-19 TIMES

On 20 September 2021, virologists announce a new Covid-19 variant, and the Belgian government issues a negative travel advisory for several countries, including Morocco. Alice and her daughter can no longer visit Marrakech and request cancellation of the trip.

 The PTD allows travellers to cancel a package if **'unavoidable and extraordinary circumstances'** occurring at the destination affect the performance of the package.<sup>2</sup> In this case, Covid-19 has made the trip impossible.

## Under the PTD, Jan has to offer Alice a full refund within 14 days:



 Under the PTD, Jan must reimburse Alice even if he has not received refunds from the hotel, airline or other service providers.

# A ROADMAP FOR IMPROVED CONSUMER PROTECTION AND A MORE RESILIENT TRAVEL MARKET

## 1 Harmonising the legal framework

If Fantasy Airlines has not cancelled its flight to Marrakesh, it has no obligation to issue a refund for the flight, despite the exceptional Covid-19 circumstances that make the journey impossible.

Travel organisers must bear the full cost of the cancellation. They are obligated by the PTD to refund passengers in full, even without reimbursement from airlines.



### SOLUTION

Find increased methods to harmonise cancellation rules for flights and package travel.

## 2

### Ensuing harmonisation and foresight of travel advice

In March 2020, for the first time since the establishment of the European Union, EU Member States began issuing negative travel advice for intra-EU travel. These advisories appeared disparate and oftentimes uncoordinated between Member States.

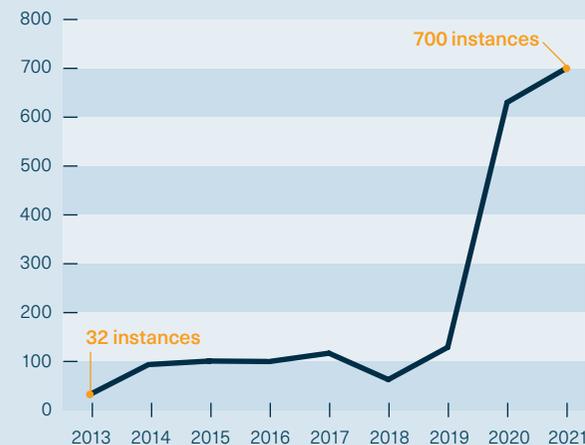
For instance, at the beginning of the pandemic, Belgian travel advice regarding border entry requirements changed three times in less than one month.

Travel professionals and consumers have been confronted with a high-degree of uncertainty, as international voyages are still susceptible to disparate travel guidance that can change from one day to the next across Member States.

#### The differences in travel advisories resulted in two negative outcomes:

- Travel agents and tour operators have difficulties in determining whether their customers had the right to cancel under the PTD.
- For those who had booked their holidays in advance – they were uncertain if they should cancel their holidays as travel advice was constantly changing and difficult to interpret.

Changes in UK Travel Advice Since 2013<sup>3</sup>



### SOLUTION

Ensure that clear travel advice is harmonised, and coordinated at the EU level with a streamlined approach to announcements.

### 3

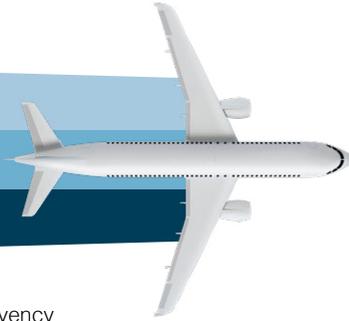
## Managing Insolvency Costs

Another challenge faced by travel agents and tour operators is the risk of airline insolvency.

**87 EU airline bankruptcies between 2011-2019**

**Approximately 650,000 passengers stranded**

**Almost 5 million cancelled bookings<sup>4</sup>**



Historically, airlines have been exempted from mandatory insolvency protection schemes. This has left consumers exposed to the capricious nature of airline bankruptcies with well over 5 million passengers left either stranded or hunting for new flights.



## SOLUTION

Airlines should be obliged to protect tickets against insolvency. This coverage should include air travellers' direct payments and thus their refunds, as well as payments made by package organisers.



if an airline files for bankruptcy, the protection will benefit the organiser and therefore the traveller.

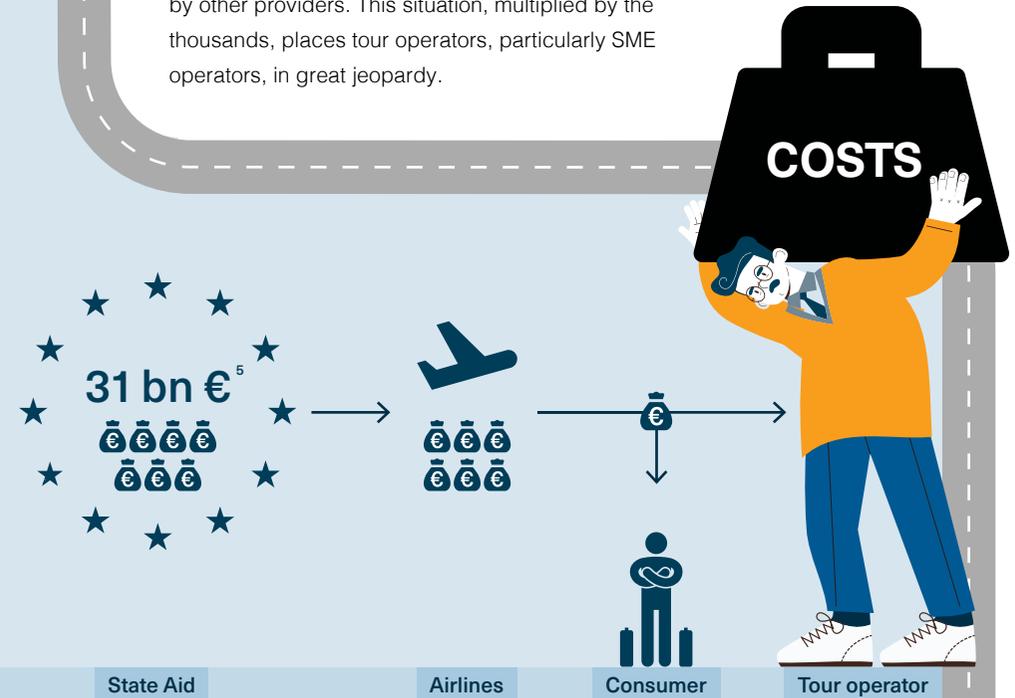


**Such a scheme is not impossible:** Denmark already offers passengers the option of protection on all flights from Denmark on carriers established in Denmark under the PTD fund.

### 4

## Mandating B2B refunds – from suppliers to organisers

In many instances, tour operators and travel agents are unable to receive immediate refunds for the flight tickets. They bear the costs of reimbursing customers within 14 days even if they themselves are not reimbursed by other providers. This situation, multiplied by the thousands, places tour operators, particularly SME operators, in great jeopardy.



March 2020 and September 2021



## SOLUTION

- Introduce an obligation for service suppliers, in particular airlines, to reimburse travel agents and tour operators for consumer cancellations in light of extraordinary events such as the Covid-19 pandemic, or;
- Permit travel agents and tour operators to reimburse travellers only after they have received a refund from suppliers.

# 5

## Simplifying complex and unclear legal concepts: LTAs

The PTD introduced the incredibly complex concept of Linked Travel Arrangements (LTAs). For example, if a tour operator initially only organises a customer's flight tickets but later adds a hotel at that customer's request, this would now constitute an LTA.

This would also be the case if a consumer books their flight through an airline's website and is then offered options for a cruise. This concept is incredibly complicated for small businesses and consumers alike, who are not regulatory experts or trained lawyers.

### Advantages:

- ✓ Travellers receive clear and accurate information on their rights;
- ✓ Travellers are protected if their service provider goes bankrupt.

### Disadvantages:

- ✗ It is difficult for travellers and regulators to distinguish between package and LTAs;
- ✗ The distinction between LTAs and standalone services is unclear;
- ✗ Many traders are also unaware when their obligations under LTA kick in once a second booking is made;
- ✗ Many travellers do not know their rights, because the rules are so complex.



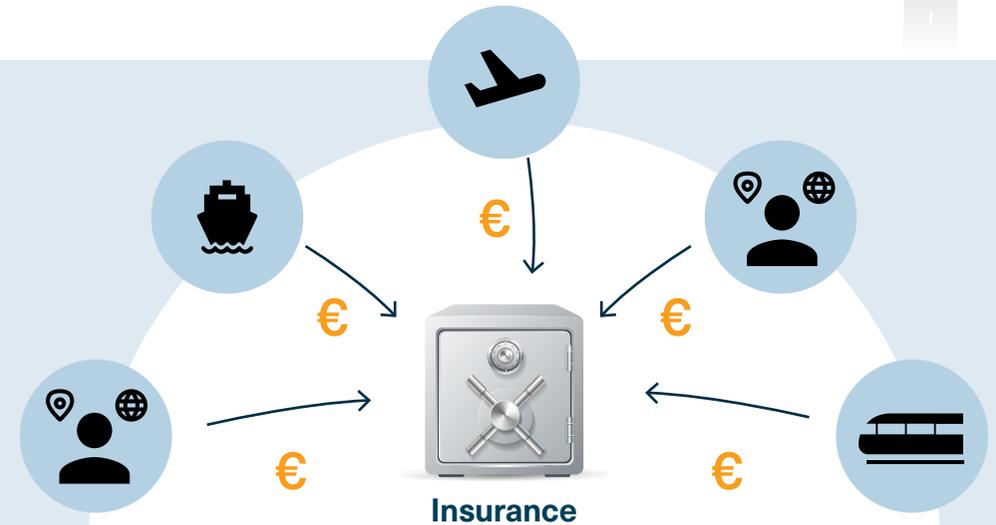
### SOLUTION

Simplify the existing framework.

# 6

## Addressing the costs of insurance

Before Covid, travel agents and tour operators already faced difficulties finding professional liability Insurance to cover the financial risk of organising a package. The situation has worsened with the Covid-19 crisis, with many insurers pulling out of the market. Any upcoming revision of the PTD should take into account that an increase in existing or new obligations would be very costly for travel agents and operators. Even worse, intermediaries run the risk of not being able to find insurance coverage for their packages at all.



### SOLUTION

Any future revision of the PTD should be proportionate in terms of increasing or adding new obligations otherwise these new costs would make it impossible to obtain professional liability insurance.

## Sources:

- 1- Commission proposes to improve consumer rights for 120 million holiday makers ([here](#)) and Directive (EU) 2015/2302 of the European Parliament and of the Council on package travel and linked travel arrangements ([here](#))
- 2- Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, Articles 12(2) and 12(4) ([here](#)).
- 3- Timeline for UK Foreign Travel Advice ([here](#)).
- 4- Study on the current level of protection of air passenger rights in the EU ([here](#)).
- 5- The Effect of COVID-Related EU State Aid on the Level Playing Field for Airlines ([here](#))

