



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

BC20-020-4400

**Commissioner Thierry Breton
Commissioner Didier Reynders
Commissioner Adina-Ioana Vălean**

Cc:

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Bénédicte Van Ormelingen, Political Assistant, DG JUST
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Barbara Mentré, Legal official

Brussels, 16th March 2020

Dear Commissioner,

While the impact of the Covid-19 outbreak cannot yet be assessed, the damages in the travel industry are immense. The Communication published by the European Commission on Friday to mitigate the economic impact of Covid-19, recognized that tourism is amongst the sectors most affected.

Travel agents and tour operators, as a central part in the tourism value chain, are being squeezed from all sides: they have booked travel services for their customers and have made part or full payments to service suppliers. But customers are cancelling their trips and requesting refunds, without the possibility for travel agents to get the money back from the service suppliers. At the same time, customers are not making any new bookings. In this context of high liquidity constraints, measures are also needed to ensure the survival of the travel industry.

ECTAA is aware that discussions at national level on supportive economic measures to help the sector cope with the serious downturn are already ongoing and welcome the announcement by the EU of a fast injection of €7.5 billion in assistance to health care systems, small businesses and hard-hit sectors.

However, considering the dimension of the current crisis, ECTAA calls on the European Commission to swiftly:

1. Provide support to whole value chain of the travel industry, including travel agents and tour operators
2. Allow exceptional flexibility in the application of the Directive 2015/2302 on package travel and linked travel arrangements

1. Support measures to the travel industry:

ECTAA calls on the Commission to enable and invite Member State to use the possibilities provided by art 107(3)b) TFUE as a matter of urgency to financially support tour operators, travel agents as well as the entire travel value chain (transport, accommodation services and other services providers).

This step is crucial to ensure the survival of tourism enterprises and that ultimately consumers are refunded as swiftly as possible. Tourism's contribution to EU employment and GDP is crucial. It contributes more than 10% of GDP and provides c.12 million jobs largely in small and medium sized enterprises. This represents the third largest socio-economic activity in the EU. Its potential for growth will only be realised with coordinated support from policy makers and other stakeholders.

Moreover, it is likely that first failures of travel agents and tour operators will occur in the coming days, when the companies will have to pay wages of their employees. Once bankrupt, travellers will not receive the full refund or price reduction that they would normally be entitled to from the organisers under the package travel Directive 2015/2302. Therefore, **a temporary compensation fund should be established at Member States or at EU level** from which travellers could claim for any difference between the package price paid and the refund or price reduction. This would be the most cost-efficient solution to ensure a timely compensation of consumer while being in line with the recommendations in the communication on a coordinated economic response to the COVID-19 Outbreak.

2. Flexible application of the Directive 2015/2302 on package travel and linked travel arrangements

Directive 2015/2302 on package travel and linked travel arrangements offers consumers a lot of protection, including in exceptional circumstances. But the Directive has not foreseen exceptional circumstances such as those we see today, where all travel is coming to a halt as airlines suspend their flights and numerous countries progressively deny entry to certain nationals or close borders and ports/airports.

In such extreme exceptional circumstances, we call for a temporary flexibility in the application of the Directive 2015/2302 on package travel and linked travel arrangements by the Member States. The guiding principles could be as follows:

- 1) Introducing flexibility to the requirement to pay refunds within 14 days (art 11.5, 12.4 and 12.5).
Where organisers are required to pay refunds or price reductions to travellers as a result of circumstances arising out the Covid 19, those refunds or price reductions should be paid within 14 days of the organiser receiving the specific refund from the suppliers. Refunds or price reductions will not be due from organisers unless they are received from suppliers.
- 2) Introducing flexibility for organizers to be able to provide refunds and price reductions by way of vouchers and credit notes:
Where organisers are required to pay refunds or price reductions to travellers as a result of circumstances arising out the Covid 19 (Art. 12.1, 12.2, 13.1), those refunds or price reductions can be satisfied by a voucher or credit note instead of cash. Vouchers and credit notes should be protected against the insolvency of the organisers.
- 3) Effective enforcement of service supplier refund obligations:
The receipt of refunds or price reductions to travellers is only possible in a sustainable way if the service supplier also refunds the prepayments received. It is therefore important to ensure that suppliers meet their refund obligations particularly where there are regulatory obligations on suppliers to refund monies. This can only be achieved if Member States can inject liquidities in the tourism value chain (via art 107 (3)b).

With regards to specific provisions of the Directive 2015/2302, ECTAA also advises to consider the following measures:

- 4) Art 12.2 and 13.7: Refunds and assistance
Organisers should not have an obligation to refund the travellers unless they receive refunds from the suppliers of the travel services. The whole value chain is adversely hit and it is simply impossible to impose to the sole travel agents and tour operators to cover the whole financial costs of the crisis.
- 5) Art 13.7: Repatriation and assistance of quarantined travellers
Travellers' costs of stay in quarantine should be compensated by the authorities imposing any quarantine. Where travelers are unable to take their return flight due to quarantine requirements, their repatriation should also be covered by those authorities.
- 6) Art 14: Non-material damages
Non-material damage should not be applicable, Covid 19 being a force majeure event.
- 7) Art 17: Financial protection for vouchers and credit notes
Vouchers and credit notes would normally fall outside of the scope of art 17. It is therefore important to ensure, for consumers' trust, that a financial protection regime similar to the one covering packages is in place. Whether it should be the existing schemes, a dedicated insurance, a dedicated fund is for discussion.
- 8) Art 10: Surcharge rules
The provisions for refunds to be made under Article 10 should be suspended in the light of the volatility of supplier costs, government action and exchange rates.

We stay at your disposal for any further information you might need and look for positively contributing to your work in order to help the travel industry overcoming those exceptional difficult times.

Yours sincerely,



Eric Drésin
Secretary General