Dear Ms Lennon,

As I believe today is the deadline date for receipt of submissions from interested parties who wish to make their views and suggestions known to those individuals who are charged with the revision of the existing legislation (1990 EU Directive on package travel), I would appreciate if you could forward this email document on to the relevant person(s) as I am not certain that you are necessarily the correct recipient?

Having read through the documentation that relates to the proposed revisions to the current package travel directive, I am forcibly struck by the fact that the proposals that appear to represent the more favoured options being considered at present by the legislators, go nowhere near far enough in:

- Offering the degree of universal peace of mind/financial protection that the said legislation purports to champion and;

- Leveling the playing field between the various parties with vested interests such that no one sector is seen to enjoy unrealistic/unfair competitive advantage over other sectors.

The anomalies that currently exist as a result of the explosion in online sales of travel-related products and services (in whatever permutation) will not be fully and equitably addressed by the proposals under consideration and for the reasons which I now state below:
distinction between whatever the eventual reworked definition of a ‘package’ will become and that of ‘linked travel arrangements’ (which will all carry a ‘government health warning’), travelers will have sufficient information at their fingertips such that they will be better positioned (and by extension, protected?) to make informed purchasing decisions. There is an inference that consumers might be persuaded to purchase more readily from those organisers who are in a position to provide a significant degree of financial protection over those that simply come with the aforementioned ‘health warning’.

Our experiences on the ground have repeatedly shown that such caveats tend not to work — except in the immediate aftermath of an airline or company collapse! Consumers tend, in our experience, to be selective as to what they choose to prioritise and much of the time, they choose to prioritise largely on price. The proof of this potentially self-destructive aspect of human behaviour is all around us. Despite the very real health warnings that consumers of tobacco and alcohol products, car drivers and sun bathers are bombarded with on a daily basis from all kinds of sources and media to name but a few examples, people continue to die in large numbers every year right across Europe from abuses of alcohol, lung cancer, melanoma and automobile accidents.

In other words, the ‘Caveat Emptor’ approach cannot be considered in any way to be leveling the playing pitch between traditional travel organisers and those online entities that currently specialise in the provision of ‘linked travel arrangements’ in the same manner as it is likely to level it between traditional travel agents and tour operators and their online counterparts as envisaged in the proposed amendments to the current legislation.

By absolving those players who trade almost exclusively in the ‘linked travel arrangements’ market of any requirement to be subject to this directive, one is effectively giving them a significant and economically advantageous head start. This is all the more offensive and morally reprehensible when one considers that most players at this end of the market tend, by definition, to be amongst the largest and most profitable of companies. Conversely, the more onerous requirements of the proposed legislation will apply mostly to companies who fall into the SME category and who are more usually
In addition, the results of recent litigation in the civil courts in this jurisdiction clearly show that an ‘open season’ mentality appears to prevail whereby both traditional travel agents and tour operators continue to be held liable for incidents, shortcomings, failures and consequences caused by third parties that have little or nothing to do with any action, inaction, or failure in duty of care on the part of the said organisers. In one such incident in 2012, an Irish tour operator was successfully sued in the Irish Courts for €30,000 as a result of a fall that a client of theirs suffered from a horse whilst riding on holiday. The tour operator in question enjoyed no relationship (either business or personal) with the provider of the horse riding activity. The activity had not been recommended by the tour operator nor any of its agents or employees, nor had any payment in respect of that service been paid to or processed by the tour operator in question.

Our understanding is that under the proposed revisions to the existing legislation, the organizer will be liable in every instance when something goes wrong with any component part of any combined travel arrangements (with all the consequences — both financial and otherwise that that will represent), whereas, all low-cost carriers for example will not be subject to any such draconian benchmark, even though they will, defacto, have facilitated the booking, purchasing or arranging of additional travel products or services — albeit at one remove and through the integrated use of XML feeds on their respective websites. I fail to see how a call to action, when expressed through persuasively worded copy on a website page and accompanied by complementary imagery is any less an act of selling a product or service than when the same transactional process is carried out in a verbal manner by a human being? Furthermore, the desire to harmonize and standardize legislation between the member states will still not address the reality whereby in many instances, OTA’s are resident outside of the EU altogether.

With the exception of trans-border travel by private transport between member EU states, the more equitable and practical way in which European consumers can be protected (both financially and operationally) in the event of unforeseen developments such as company failure, strikes, human errors, technical problems, ash clouds, civil insurrection or other force majeure etc., is to impose a mandatory travel tax — or whatever other euphemism you care to use — every time a traveler leaves their own domestic
collected into a central fund in each member state in respect of all intra-border travel movements originating in that jurisdiction and allowed to accumulate to a minimum size and within an agreed timeframe. Given the accumulated historical data that all member states already have at their disposal, it would be relatively easy to analyse such data in order to make certain informed calculations as to:

1. What the size of the individual levy would need to be in each jurisdiction?
2. How long it would take to reach a predetermined size, based on the actuarial estimation of annual claims against the fund?
3. Whether or not the levy would then need to be reduced or temporarily suspended once that threshold figure had been reached?

A percentage of the monies collected into such a fund (e.g. 5-10%) could then be used to purchase reinsurance in order to cover any worst-case scenarios that might develop in the early years of the fund, should the levy amounts being collected initially, not be sufficient in order to meet short-term liabilities. Over time, the fund could then be administrated more like a captive insurance market so that any liabilities could be paid out of the actual levy income collected.

By failing to equalize the trading environment in which all the relevant parties compete with each other, it would only become a matter of time before the onerous costs and operational responsibilities that such proposed legislation would impose would begin to accelerate the exit from the market of more traditional organisors in favour of their online counterparts providing 'linked travel arrangements' and that indeed would be a tragedy for all concerned! Any such diminution in choice for consumers would represent a retrograde step and so we appeal to the Directorate to give careful consideration to this submission.

By way of supplementary reinforcement of both the subtle and obvious ways in which traditional organisors such as travel agents and tour operators continue to provide considerable advantages to consumers over those of their online counterparts, I also...
anomalies.

Regards

Dominic

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