



HOTREC

Key EU developments
and positions of the
hospitality sector

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Interview with Ms. Christel Schaldemose, member of the Committee on the Internal Market and Consumer Protection (IMCO)



Ms. Christel Schaldemose is a Member of the European Parliament since 2006 and also a member of the Committee on the Internal Market and Consumer Protection (IMCO) since then. MEP Schaldemose is rapporteur in the European Parliament of the European Commission proposal for a Regulation promoting fairness and transparency for business users of online intermediation services. HOTREC asked MEP Schaldemose to share her views and vision on this proposal.

1) Online platforms are the gateway for millions of enterprises to consumers and in general to the market. However, in several markets, like on the online intermediated hotel booking market, a concentration of players and thus the development of oligopolies can be observed, which often bring practices to the market, which businesses consider unfair. How do you assess the need for intervention for a more competitive and fairer market, and to re-balance the online market between online platforms offering intermediation services and European SMEs?

There is no doubt that online platforms can be a very helpful tool for many European SMEs. But we need to find a much better balance between platforms and business users than the current situation, where platforms can be very powerful and in some cases misuse their dominant positions. We need transparency, but also fairness.

With this proposal, I am aiming to ensure that we will have the muscles to create a fair market between platforms and business users and, where it is necessary, force the platforms to act accordingly. It is ultimately to the advantage of the consumers but also to a large degree to the advantage of the businesses and the platforms.

2) The European Commission proposed a draft Regulation on 26 April 2018 aiming at bringing more fairness and transparency in online intermediated markets. In HOTREC's views, the key concerns of businesses were well identified by the European Commission. Where do you see necessary improvements to the Commission proposal?

The European Commission's draft regulation was quite good, but I want to be more ambitious. This regulation will be the basic regulation that will be the foundation for further regulation of the online platforms. That is very interesting. To that end, I want to add more power to the Commission's draft. To aim for more transparency is good in itself, but we need to add the possibility of forcing the platforms to do their business in another way. In a more fair way.

The Commission's draft settles with the platforms being obliged to inform about their terms and conditions, but not necessarily change them if and when they are not fair. But I think we should be able to force platforms, who are misusing dominant positions, to change unfair terms and conditions to the benefit of the business environment and the consumer.



3) In HOTREC's views, online markets are evolving very fast and businesses' dependency on online platforms are growing day by day. How much do you agree with this observation and how important is it in your agenda to allow for the adoption of this proposal in the current legislative period by spring 2019?

It is of utmost importance to get this proposal adopted before the end of this legislature. It is a crucial piece of legislation, which gets more important, as we become more digitalised. I agree that online markets are evolving very fast and business' dependency on online platforms is growing every day. The same is true for the consumers. No matter what products we want to spend our money on, we will be searching for the perfect hotel, best restaurant or nicest car online. This is why it is imperative for both consumers and producers to make certain, that the market operates in a fair manner. In the end, a fair market will ensure more competition, lower prices and a wider variety of products and services.

It would be a tremendous, wasted opportunity not to get this legislation adopted as fast as possible. Even worse would be if we would have to wait another year or two or three. We have the chance now, and I am aiming to have a plenary vote on the proposal in December. Thereby we would be able to discuss the proposal with the Council and hopefully land a political agreement before the end of the legislature.

COMPETITIVENESS, MARKET AND ECONOMY

SME Test in Impact assessments – further progress needed



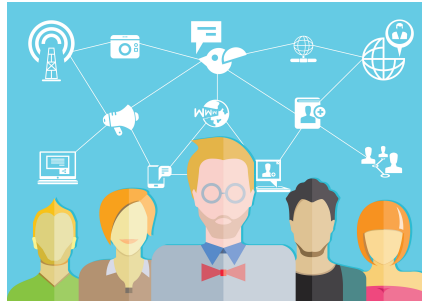
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HOTREC President Susanne Kraus-Winkler highlighted the high share of SMEs and especially micro-enterprises in the hospitality sector, with micro-enterprises representing over 90% of all businesses. This means that impact assessments taking into account micro enterprises and SMEs are of fundamental importance. She proposed in the meeting that once SME tests identify difficulties for SMEs, there should be automatic derogations implemented in the legislative proposals. Furthermore, sector specific issues should be better scrutinized, as the same requirements might affect differently one sector than the other. If sector specific difficulties are detected, they should be better taken care of at the preparatory phase of the legislation.

HOTREC position

- HOTREC welcomes that the current European Commission proposed less legislation and more targeted ones, avoiding largely superfluous legislation.
- HOTREC considers that despite visible improvements, SME aspects need to be even better reflected in the legislative impact assessments and difficulties shall be tackled directly in the relevant legislative proposals.

Transparency requirement for online platforms: rapporteur questions extent of new obligations on paid for rankings



On 20 July 2018, MEP Daniel Dalton (ECR, UK) released his draft report for the IMCO Committee on the Commission proposal on better enforcement and modernisation of EU consumer laws. As the Commission text proposed to make an unfair commercial practice for platforms not to inform consumers about “paid-for-rankings” or “paid-placements” in search results, the rapporteur proposed to limit such unfair commercial practices strictly to cases where the payment is the main parameter determining the search result.

As the rapporteur presented his draft report in the IMCO on 3 September 2018, the shadow-rapporteur of the ALDE group, MEP Jasenko Selimovic (Sweden), as well as the S&D coordinator MEP Nicola Danti (Italy) and EFDD shadow-rapporteur MEP Marco Zullo (Italy) criticised this specific proposal from the rapporteur.

Besides, the Council is starting slowly to review the Commission proposal. So far, very few meetings have been scheduled by the Austrian Presidency of the Council, meaning that the file is not among its priority. While the transparency obligations for online platforms do not seem to raise major controversies among Council delegations, other aspects of the Commission proposal (right of withdrawal for goods, dual quality of food) may slow even more the discussions in the Council, raising serious doubt about the possibility for the Council to reach a common approach under the current Austrian Presidency.

NEXT STEPS:

In the IMCO Committee, MEPs can table their amendment proposals to the Dalton draft report by 18 September 2018. The IMCO should adopt its final report on 22 November 2018.

ACTIONS:

HOTREC members to send the HOTREC position to their government.

HOTREC position:

- *HOTREC strongly welcomes the Commission's proposal to introduce transparency requirements for online market places. Very often, consumers do not have any idea about what criteria are behind rankings, who is behind an offer and whether they are protected by consumer laws when choosing an offer. This situation creates an un-healthy situation which benefits to rogue traders only. These proposals from the Commission will help tackling this issue and building trust in online markets. They should be supported.*
- *HOTREC particularly applauds the provisions which makes mandatory for collaborative economy platforms to identify if an offer is made by a trader or not. This will bring fairness and transparency to collaborative economy platforms.*
- *HOTREC opposes the rapporteur's proposal not to inform consumers about remuneration which influences the rankings in search results. Given the importance the ranking of products have on consumer behaviour, any remuneration affecting this ranking shall be communicated to consumers, in order for them to make informed choices.*
- *HOTREC calls on the Austrian Presidency of the Council to make the adoption of this Commission proposal a priority, as its adoption are urgently needed by both individual businesses and consumers.*

Parity clauses banned in another 2 countries



On 19 July 2018, the Belgian Parliament voted by unanimous decision a law banning parity clauses from the contracts between accommodation providers and online reservation platforms. Just one day after, the Swedish court declared the ban of the parity clauses applied by the most important accommodation reservation platform, Booking.com.

This legislative move in Belgium was initiated by the Belgian hospitality associations Horeca Bruxelles/Brussel, Horeca Vlaanderen and Horeca Wallonie and it also enjoyed the support of the Belgian consumer organisation 'Test Achat'. The ban applies not only to rates, but to offer different conditions (e.g. breakfast, internet access).

On 20 July 2018, the Swedish Patent and Market Court issued its judgement forbidding Booking.com to impose parity clauses in its contracts with hotels from 20 October 2018 onwards. Such clauses must not be imposed in any form and under any conditions on hoteliers. Moreover, the decision also includes that ranking algorithms must not take into account refusal of hoteliers who are denying such clauses. Incentives by Booking.com e.g. in the form of lower commissions to apply such clauses is forbidden as well.

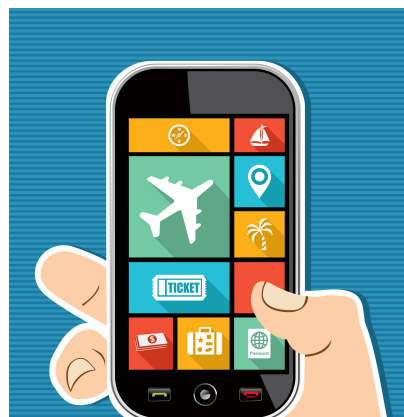
With these 2 decisions, parity clauses are already forbidden in 6 countries, including Austria, France, Germany and Italy. The bans in these 6 countries already cover more than 55% of the European tourism market in terms of overnight stays.

Parity clauses applied by online booking platforms forbid businesses to offer better conditions on their own websites than provided to the online intermediary. As 2 online booking platforms dominate over 82% of the increasing online intermediated hotel booking market in Europe, these decisions partly release platforms' pressure from the market, allowing for fairer competition to the benefit of consumers' and all businesses.

HOTREC position:

- *HOTREC considers that parity clauses are detrimental to both business and consumers and also hinder European enterprises to exercise their entrepreneurial freedoms in the distribution of their own products.*
- *HOTREC welcomes the recent unanimous decision of the Belgian parliament as well as the Swedish court decision, marking the way for other countries to follow the same route.*

Platform to business relations – Intensive discussions ongoing



The discussions in Council and European Parliament are intensively ongoing on the Commission proposal for a Regulation tackling platform-to-business relations. It seems that both the Council and the European Parliament are interested in reaching agreement on the file before the European elections in spring 2019.

On 19 June 2019, a public hearing was held by IMCO Committee, which is leading the file in the European Parliament, to which HOTREC participated as speaker. In the meeting, the rapporteur MEP Schaldemose (S&D, Denmark) showed interest in the question to have parity clauses applied by online platforms be forbidden at European level.

On 6 September 2019, the EP ITRE Committee (Industry, Research and Energy) published the draft opinion prepared by MEP Anna Zaborska (EPP, Slovakia). In her opinion, inter alia, platforms shall share the data generated by the activity of the business users with those business users. In addition, she proposes that platforms shall not restrict the ability of business users to offer the same goods and services to consumers under different conditions through other means. The draft opinion also proposes to reduce the time for the first evaluation of the Regulation from 3 to 2 years, allowing for more timely reactions, if needed. 7

In the Council, several expert meetings are scheduled on the file, and first compromise texts are being presented for discussion. The Austrian Presidency aims at reaching a General Approach at the Competitiveness Council meeting in November, in order to be able to start negotiations with the Parliament as soon as possible.

NEXT STEPS:

In the IMCO Committee, MEPs can table their amendment proposals to the Schaldemose draft report by 3 October 2018. The IMCO should adopt its final report on 6 December 2018.

ACTIONS:

HOTREC members to send the HOTREC position to their government.

HOTREC position:

- *HOTREC welcomes the draft opinion of MEP Zaborska, allowing for fair access to data for business users as well as the provision granting business users to offer different conditions on the market than the ones offered to the relevant platform.*
- *HOTREC further stresses the need that affiliate programmes of platforms should be more transparent to business users, in order to better identify intermediaries working with the relevant platforms.*
- *HOTREC also considers, that intellectual property rights of business users shall be better respected and should not be compelled to give up fully or partly the control over such rights.*

HEALTH

European Alcohol and Health Forum – preparatory meeting



On 4 June 2018, the European Commission, namely DG SANTE organised a meeting with industry and non-industry stakeholders to present the new methodology of the European Alcohol and Health Forum. The Commission will invite former and current Forum members to submit commitments, which will be assessed according to the new methodology by the Commission, the Joint Research Centre and WHO.

The assessment will be provided as an advice. In addition, forum members will be asked to orientate their commitments in line with the guidelines provided by the Committee on National Policies and Actions (CNAPA) and the objectives of the UN Sustainable Development Goals. The assessment of each commitment will be transparently reported in the context of the annual monitoring reports. 8

NEXT STEPS:

- European Commission to send instructions to Alcohol Forum members on next steps;
- Stakeholders to put forward commitments

HOTREC position:

- *HOTREC strongly supports and encourages members to implement measures that enforce age limits when serving and selling alcohol and develop information programmes on responsible drinking as part of its commitment to the European Alcohol and Health Forum;*
- *In order to continue raising awareness of the sector's activity, HOTREC was present at the stakeholders meeting organised by WHO, at Geneva, on 19th June 2018 and disseminated best practices developed by its members at national level;*
- *HOTREC believes on the advantages of the Alcohol Forum, as a platform of exchange of good practices. HOTREC hopes that the plenary meetings will restart being called upon by the European Commission in the upcoming months.*

SOCIAL AFFAIRS

Working conditions: all hopes on EP compromise amendments



On 21 June 2018, the Council of EU reached a general approach on the Working Conditions Directive (revision of the Written Statement Directive). The main content summarises as follows:

- Definition of “worker” should be established in accordance with each country's national legislation and practices;
- A two stage mechanism is established for the employer to communicate the information: one calendar week for the most essential information and a second deadline for the rest of the information;
- Exception regime: for those who work up to five hours per week over a four-week reference period.

On the European Parliament side, Members of the European Parliament put forward amendments to the draft report issued by MEP Calvet Chambon (2017/0355(COD)). Amongst other points, the rapporteur has replaced the expression “work schedule entirely or mostly not variable” by the notion of “standard working day or week”; has extended the probationary period to 12 weeks, and defends that the information should be provided by the employer orally on the first day of work.

ACTIONS :

- HOTREC has sent the list of amendments for and against to all MEPs in the EMPL committee;
- HOTREC members to act.

NEXT STEPS :

- Vote at the EP scheduled to 18 October 2018;
- Trilogue negotiations to start and reach a compromise

HOTREC position :

- *90% of the 1.9 million companies in the hospitality sector are micro-entreprises. The sector uses on an usual basis casual work due to its specificities: seasonality; occasional work (e.g. need to organise a buffet on a specific day);*
- *The exception regime of Council Directive (91/533/EEC) shall be kept: Member States may provide that the Directive shall not apply to employees having a contract or employment relationship with a total duration not exceeding one month, or with a working week not exceeding eight hours or of casual nature. This would decrease the administrative burden to companies;*
- *It is unfeasible to the sector, due to its unpredictability, to provide the right of minimum predictability of work and the right to transition to other form of employment.*

Work-life Balance: Trilogue negotiations ready to start!



The trilogue negotiations between the European Parliament (EP), the Council of the EU and the European Commission on the Work-Life Balance proposal for a Directive are now ready to start. In fact, the Employment and Social Policy Council reached a general approach on 21 June 2018, whereas the EMPL committee voted on the file on 11 July 2018 (34 votes for, 14 against and 4 abstentions). Both institutions have quite different views on some of the topics, namely on payment, but a compromise is now needed.

The main outcome from the Council side is the following:

- **Payment:** for all leaves the payment is to be defined by Member States and / or social partners. With regard to parental leave, the non-transferable part (2 months) shall have a remuneration at “adequate” level of at least 1.5 months. Both paternity and carer’s leave should be paid at “adequate remuneration level”;
- **Parental leave:** 2 months cannot be transferred. There is no mention of a specific age of the child for the parents to take the leave;
- **Carer’s leave:** definition left to Member States to decide. No minimum number of days.

On the other hand, the EP voted in the following lines:

- Payment: for paternity leave, the payment should be at least 80% of the worker's gross wage, whereas for parental and carer's leave, the payment will be of, at least, 78% of the worker's gross wage;
- Parental leave: 4 months cannot be transferred and should be taken until the child reaches 10 years old;
- Carer's leave: minimum 5 working days; extended to family at second degree; medical proof needed;
- Burden of proof: flexible working arrangements not included in the scope;
- Degree of relieve for SMEs and micro enterprises.

ACTIONS :

- HOTREC sent its position for the trilogue negotiations to all Permanent Representations, to the rapporteur and shadow rapporteurs at the EP, and the European Commission;
- HOTREC members to act.

Next steps

- Trilogue negotiations to start and reach a compromise

HOTREC position :

- *Payment: it should be up to Member States to define the payment of paternity, parental and carer's leave. Subsidiarity must prevail. It is to note that countries where companies pay for the leaves, would need to pay a double salary: to the person on leave and to the replacement. In countries where payments of the leaves are paid by the governments, indirect taxes would need to be charged to companies. Unproportioned payments will lead to a decrease in competitiveness, job creation and possible closure of business;*
- *Parental leave: only two months should be non-transferable – other option will be against the free willingness of families;*
- *Age limit: both for parental leave and flexible working arrangements HOTREC considers that either Member States decide or that eight years old seems to be reasonable age until when time off can be taken. This goes in line with the recommendation of the social partners (Council Directive 2010/18/EC);*
- *Reversal of the burden of proof: HOTREC calls for its suppression. The burden for the employer would be unproportioned, not to mention that the current rules on dismissals (national law, EU law, collective agreements) would need to change accordingly.*

SUSTAINABILITY

EU drinking Water Directive: the ENVI Committee supports tap water in restaurants for free or a low service fee for customers only



On 10 September 2018, the ENVI Committee of the European Parliament adopted its report on the Commission proposal to revise the drinking water Directive, with the aim of improving the quality of drinking water and improve access to drinking water to all. A highly disputed vote took place on provisions asking Member States to encourage restaurants to serve free-tape water. An amendment proposed by the rapporteur MEP Michel Dantin (EPP, France) and supported by the EPP, ALDE, ECR and ENF groups was finally voted, clarifying that this provision shall apply exclusively to customers of restaurants (and not to any person entering a restaurant without consuming anything) and allowing restaurants to charge a low service fee.

NEXT STEPS :

The plenary session of the European Parliament is expected to adopt its report and position in October 2018. Meanwhile, the Austrian Presidency will keep advancing the discussions in the Council. In order for the Directive to be adopted under the current legislature, the Council will need to reach a common approach soon enough to allow for trilogue discussions to start before the end of the year.

ACTIONS :

HOTREC developed a position paper and proposal of amendments, which were circulated to the key MEPs, to the Commission and to the Austrian Presidency of the Council. HOTREC members should contact their governments and provide them with HOTREC's position.

HOTREC position:

- *HOTREC strongly welcomes the ENVI report and the adoption of the amendment proposed by MEP Dantin and the EPP, ALDE and ECR groups clarifying the Directive provisions applicable to the restaurant sector. The amendment voted already represents a significant step to improve access to water in restaurants in countries where tap-water is not customarily served. This amendment will also avoid disproportionate burdens on local businesses, in particular in highly touristic destinations where non-customers could have otherwise make it difficult for restaurants to operate normally. Besides, the possibility to charge a low service fee is a recognition that a restaurant service is not free and will more easily convince restaurants to serve tap-water in countries where this is not already a custom.*
- *HOTREC strongly encourages the Council to adopt a similar position and agree on this specific amendment proposed by the ENVI Committee*

EU proposal to ban some single-use plastics: the European Parliament rapporteur proposes to shorten the phasing-out period 1 2



Following, the European Commission proposal of 28 May 2018 to reduce the use of single-use plastics, the European Parliament ENVI Committee is now discussing its own position. The rapporteur in the ENVI, MEP Frédérique Ries (ALDE, Belgium) published her draft report mid-July 2018 in which she proposed to tighten the Commission proposal on some aspects, and in particular to shorten the deadline for phasing-out some Single-Use-Plastics such as straws, cutlery, plates, etc.

During the discussions on the draft report from MEP Ries, held on 3 September 2018, MEPs from the S&D and Green groups seemed to be favouring a tightening of the Commission proposal, while EPP and ECR members were more cautious in their approach. The members of the ENVI Committee were given until 4 September to table their amendments.

The text of the Commission proposal is available [here](#) and the annexes are available [here](#). The draft Report from MEP Ries is available [here](#).

NEXT STEPS:

The ENVI Committee will vote on its final report on 10 October. The Council and the European Parliament will need to agree on the final text of the Directive. An agreement will need to be reached and endorsed by the European Parliament plenary before the next European elections (to be held in May 2019).

HOTREC position:

- *The hospitality sector is often using single-use plastics mostly in the fast-food and take-away segment, but also in the hotel sector and for external catering events. The Commission proposal is therefore likely to impact hospitality businesses, in particular SMEs and micro-enterprises, as the most common alternatives to single-use plastics are more expensive.*
- *Nevertheless, the hospitality industry considers that the issue of single-use plastics must be addressed, given the strong impact their extensive use has on the environment and on marine litter. HOTREC considers that additional flexibility should be introduced in the Commission proposal, in order to give enough time for cheaper alternatives to become available for small and micro-businesses. In particular, a one year derogation for the selling of some single-use plastics (e.g. cutlery, plates) to hospitality businesses, compared to the general deadline for such products, would help bring down the price difference of alternatives and ease the transition for small businesses.*

TAXATION

VAT rates – EP report close to be voted

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On 3 September 2018, the European Parliament has adopted in the ECON Committee its draft report on the Commission proposal to amend the VAT Directive as regards the rates of value added tax (COM(2018)0020).

The draft report proposes to the Council (which is the only decision making body in tax questions taking decisions still by unanimity), to amend a recital in the Directive, proposing to avoid using reduced rates to harmful or luxury products. At the same time the report also proposes to encourage the use of such rates to products having a positive cultural, social or environmental effect.

NEXT STEPS:

The EP report is planned to be voted in the plenary session in October.

HOTREC position:

- *HOTREC considers it difficult to engage into a discussion on taxing products which are considered luxury differently (especially in the same product category) as other products. The application of this approach to the tourism industry would cause huge difficulties and undermine Europe's competitiveness in the global tourism market.*
- *Therefore, HOTREC considers, that the Council and the Member States should consider carefully their policies regarding taxing luxury products, as it can have serious detriments to specific industries, and their structures.*
- *Several examples in EU Member States have shown the positive effects reduced VAT rates are bringing to employment, as demonstrated in HOTREC's brochure on the topic of May 2017. In fact, almost all EU Member States apply a reduced VAT rate to accommodation services, and more than half of them a reduced rate to restaurant services, making Europe an affordable and competitive tourism destination in the world.*

STATISTICS

Recent publications

More than 1/3 of Europeans did not make a tourism trip in 2016: 62% of all Europeans (aged 15 years and more) made at least one tourism trip in 2016. For the other 38%, the main reasons for not making a tourist trip were mainly financial reasons, but also health reasons and the lack of motivation to travel played an important role. The reasons for not travelling vary strongly from country to country.

TOURISM

Council agrees on temporary internal border controls

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On 19 June 2018 the Council of the EU reached an agreement on a negotiating mandate to reform the Schengen Border Code, proposed by the European Commission. The text aims at clarifying the situations where the Schengen Code allows for the reintroduction of border controls, such as international demonstrations. The Council agreed that in case of persistent threats, such as terrorism, the total period of reintroducing internal border controls is one year (as opposed to the three years envisaged by the Commission).

HOTREC position

- HOTREC believes that the freedom of movement of people across Schengen is one of the fundamental pillars of the EU;
- HOTREC hopes that the reintroduction of border controls is only a temporary measure and that free circulation is the rule, within a secure environment.

HOTREC GENERAL ACTIVITIES

Next Meetings and General Assemblies

In the coming months, HOTREC will organise and/or participate to the following meetings.

- 17 September 2018 (Brussels, Belgium): 1st meeting of the EU stakeholder expert group on the Package Travel Directive
- 27 September 2018 (Brussels, Belgium): European Tourism Day
- 27-28 September 2018 (Brussels, Belgium): EU-China Sustainable Tourism and Sustainable Cities
- 1-2 October 2018 (Vienna, Austria): European Tourism Forum
- 18-19 October 2018 (Krakow, Poland): HOTREC 77th General Assembly
- 15 November 2018 (Luxembourg city, Luxembourg): Plenary meeting of the EU platform for action on diet, physical activity and health



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