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## **HOTREC answers to the questions on issues which could be raised in the initiative report on Tourism by the EP TRAN Committee**

HOTREC welcomes this initiative by the EP TRAN Committee and is pleased to contribute to its contents.

### **1) What are you expecting from the initiative report of the European Parliament on tourism?**

Although the Treaties do not recognise a specific competence to the EU Institutions in relation to tourism, HOTREC has identified some 250 measures of EU origin, impacting directly or indirectly the activities of the 1,5 million enterprises in the hospitality industry. These measures relate to taxation, labour law, consumer protection, food law etc. So far, a proper assessment of the impact of such measures on the tourism industry, and in particular the hospitality industry, has been greatly neglected. Our general expectations are, therefore, threefold:

1. HOTREC would like that this report marks the start of a new era, in which the EP TRAN Committee, systematically reviews all proposed measures likely to have an impact on tourism and regularly consults with the industry on these measures.

2. HOTREC would also appreciate it, if the report were to insist on the essential coordination role the Tourism Unit in DG Enterprise has to play in:

- monitoring the development of measures likely to affect tourism within the various Commission Directorate Generals;
- assessing their true impact on the tourism industry in close collaboration with the latter;
- communicating that assessment within the Commission, Parliament and to the Member States;
- advocating the point of view of the tourism industry vis-à-vis the other Commission Directorate Generals and other EU Institutions; and
- keeping the tourism industry informed of the progress of proposals through the other Institutions.

3. This report should draw the attention of the MEPs, the other European Institutions and the national authorities to the following aspects of the European tourism industry,

and in particular the hospitality industry, in relation to the developments of EU legislation impacting it:

- Economic importance of the hospitality industry  
The hospitality industry employs some 8,3 million people, which accounts for 11,9% of non-financial service employment and some 4% of employment in Europe. It contributes 5.8% of non-financial services value added. Europe remains the most important tourist destination in the world, with a market share of 54,5%, although this figure is declining.
- Predominant micro-enterprise dimension of the hospitality industry  
92% of the 1,5 million enterprises in the hospitality industry employ less than 10 persons. The category of less than 50 employees encompasses 99% of all these enterprises. Micro-enterprises (less than 10 persons) generate some 38% of value added and small enterprises (less than 50 persons) contribute a further 26% value added, these 2 categories making up in total for some 64% of value added.

**2) What are the EU competences/policies which can be considered as having a major impact on tourism? Can you indicate any particular file/Regulation?**

As explained above, a great number of measures have an impact on the tourism industry, and in particular on the hospitality industry. We are highlighting a few which are currently being discussed or should be discussed soon within the EP. We suggest that the TRAN Committee prepare an opinion on each of these measures.

**VAT – follow-up to Directive 2006/18** – Report due in June 2007 by the Commission

Unfortunately, the Council of Ministers failed - notwithstanding almost 3 years of discussions - to agree on the Commission July 2003 proposal to review the list of goods and services to which Member States may choose to apply a reduced rate of VAT. It could only agree in February 2006 on the extension until the end of 2010 of the possibility for Member States to apply reduced VAT rates to the following labour-intensive services: small repair services, renovation of private homes, window cleaning and private household cleaning, domestic care services and hairdressing.

However, Directive 2006/18 also provides that *“by 30 June 2007 at the latest the Commission shall present to the European Parliament and the Council an overall assessment report on the impact of reduced rates applying to locally supplied services, including restaurant services, notably in terms of job creation, economic growth and the proper functioning of the internal market, based on a study carried out by an independent economic think-tank.”*

HOTREC hereby invites the EP, and in particular the TRAN Committee, to review very closely the report the Commission is to issue in June 2007 and to reiterate the call expressed in its Resolution on *“New prospects and new challenges for sustainable European tourism”* of 8 September 2005 *“on the Council urgently to conclude the decision-making process on the proposal for a Council Directive... as*

*regards reduced rates of value added taxes, so as to enable all Member States to apply in a structured way reduced VAT rates for restaurants, as already exist for other tourism-related activities, such as holiday accommodation, plots on campsites, hotels and amusement parks".*

**Revision of the Regulation 852/2004 on hygiene of foodstuffs** – COM(2007)90 final – COD/2007/0037 – report by TRAN Committee expected

Within the context of the Community policy on Better Regulation, the Commission has proposed to exempt micro-enterprises from the obligation to have recourse to the HACCP system, as food hygiene can be ensured by other means.

It is essential for the 92% of micro-enterprises in our industry that the TRAN Committee votes favourably on this proposal on which it is to report in a near future.

**Proposed Regulation on the law applicable to contractual obligations (Rome I)** COM(2005) 650 final – COD/2005/0261 – currently discussed in JURI Committee

HOTREC is very worried about some amendments proposed to Article 5 §3 of the proposal submitted by the Commission.

According to the Rome Convention, as well as to the proposal by the Commission, there is an exception to the application of the law of the country where the consumer has his residence, when a contract covers the supply of services exclusively in a country other than that of the residence of the consumer.

In our opinion, contracts concerning hotel and restaurant services enjoyed abroad by the consumer should continue to benefit from this exception and the law of the country where the hotel or the restaurant are located should apply in case of conflict, as it is the law of the country of consumption: the services are fully consumed in the hotel or in the restaurant.

In terms of business impact, it is essential to keep in mind that some 92% of hotels and restaurants in Europe are micro-enterprises. A change in the law applicable, as suggested by some of the recent amendments proposed, would imply that these micro-enterprises have to deal with the legal systems of all the countries from which they receive visitors.

In addition, the consumption at the place of the service provider facilitates immediate complaints and immediate resolutions of any possible conflicts. In the interest of both parties, the consumer should not be encouraged to postpone a dispute until he/she returns to his/her residence under the argument that the law of his country of residence will in any case apply.

In conclusion, we invited the JURI Committee to uphold Article 5 §3 (a) as it stands in the Commission proposal (previously Article 5 §4 (b) in the Rome Convention) and to reject all amendments which include the deletion of this provision, which is so crucial to our industry. Support of the TRAN Committee in relation to this subject would be welcome.

**Commission Communication on an EU strategy to support Member States in reducing alcohol related harm** - COM(2006)0625 – draft report by ENVI Committee Prov 2007/2005 (INI)

The ENVI Committee is currently reviewing the Commission Communication on an alcohol strategy. Whereas excessive drinking is detrimental to health and society, a moderate consumption of wine and beer is recommended for its relaxing effects and even for medical reasons. We were pleased to read that the draft report shares our views on the dilemma raised by the alcohol issue.

The draft report also expresses support for the setting up of an Alcohol Forum. The experience of the Nutrition Platform has already showed us the bureaucracy of the exercise, in particular in relation to an industry which consists mainly of micro-enterprises. Stakeholders in the Alcohol Forum will have to take firm commitments, which will be monitored and evaluated on an annual basis. HOTREC as well as its member associations are reluctant to embark upon this commitment exercise. It is fairly unrealistic to expect commitments which can be monitored and evaluated at European level, from enterprises employing less than 10 people! The multiplication of platforms and fora at EU level seems to be the latest technique which the Commission employs to impose obligations in areas for which the Treaties do not give it competence. According to Article 152, the Commission should only promote actions to complement national policies and not impose obligations on enterprises.

We therefore call upon the TRAN Committee to invite the ENVI Committee to review carefully the experience of the Nutrition Platform before supporting an even more stringent exercise in relation to alcohol!

**Proposed Regulation establishing a Community Code on Visas** – COM(2006) 403 final – COD/2006/0142 - report by the LIBE Committee expected in April

The tourism industry is very much concerned about the recent increase in the Schengen visa fees. In relation to the proposed Regulation, the tourism industry is very much concerned about the impact that the collection of biometric identifiers will have on visa applicants. The tourism industry also disapproves of a number of requirements that visa applicants need to fulfil. All these measures will have a major negative impact on incoming tourism to Europe. The new rules for visa applications by third country residents will deter many of them from choosing Europe as their primary holiday destination.

Furthermore, HOTREC regrets that the European Commission did not consult stakeholders or undertake a proper impact assessment on the impact that the proposed Regulation will have on European tourism.

**Proposed Directive to include aviation EU Emission Trading Scheme** - COM(2006) 818 final – COD/2006/0304 – report to be prepared by ENVI Committee and commented upon by TRAN Committee

As far as the inclusion of aviation in the EU Emission Trading Scheme is concerned, HOTREC invites the European Parliament to amend the proposal in a way, so that the

new rules will be applicable for all flights to and from EU airports at the same time. Introducing the system only to intra-Community flights first would mean higher costs for tickets within the EU only, and this for an unforeseeable period of time, making non-EU destinations more favourable for European travellers. That would lead, as in the case of the proposed new visa regulation, to the loss of tourists and to a potential increase of unemployment in the tourism sector, which cannot be welcomed by the EU decision-makers.

Furthermore, such a new financial burden would be particularly detrimental for islands and countries which are mainly accessed by air. Their particular situation should be reflected upon carefully while reviewing the proposed Directive.

**EP resolution of 13 March 2007 on the Commission Recommendation on collective cross-border management of copyright and related rights for legitimate online music services** – P6\_TA-Prov (2007)0064 – extension of scope requested

This EP resolution rightly stresses that there is a need for a new text which would:

- “– *emphasise the use of alternative dispute resolution, in order to give all the parties involved the possibility of avoiding protracted and expensive legal procedures while ensuring fair treatment for owners and users,*
- *provide for democratic, transparent and accountable governance in CRMs [collective rights managers], inter alia by establishing minimum standards for organisational structures, transparency, representation, copyright distribution rules, accounting and legal remedies,*
- *ensure comprehensive transparency in CRMs, particularly as regards the calculation base for tariffs, administrative costs and supply structure and, where necessary to that end, lay down rules for the regulation and supervision of CRMs...*”

However, this resolution concerns only online music services and we would like to suggest to the TRAN Committee that they draw the attention of their colleagues to the urgent need to review the functioning methods of the Collecting Societies in general and not only in relation to on-line music services: such a review had been promised by the Commission years ago but was never undertaken.

Copyright is an important issue for hospitality establishments as they usually offer some form of music to their customers and therefore owe royalties to the creators and performers of the music, on the basis of tariffs imposed by or agreements concluded with the rightholders' respective Collecting Societies. As a matter of fact, there is a deep sense of discontentment in the hospitality industry concerning the way collective rights management is practised across Europe.

**3) Do obstacles exist at European level that prevent you from implementing a useful and efficient tourism policy/business activity?**

Once again, HOTREC draws the attention to the predominant micro-enterprise dimension of the industry (see comments above in relation to question 1). The hospitality sector welcomes every initiative, which cuts red tape and reduces administrative burdens for enterprises, and in particular for SMEs, and urges the European institutions to make effective steps in this direction.

Since years, HOTREC has been calling for legislation to be:

- Based on properly researched information;
- Proven necessary, after clear demonstration that the rules in place cannot achieve the objective through better enforcement;
- Proportionate to the harm it seeks to redress;
- Developed within the context of proper and continuous consultation of all stakeholders, whose consensus should be sought. Better regulation is achieved through ownership by all the stakeholders;
- Accompanied by a rigorous cost/benefit analysis to be regularly reviewed throughout the different stages of the legislative process;
- Drafted clearly, simply and precisely, taking account of the persons to whom the legislation is intended to apply, with a view to enabling them to identify their rights and obligations unambiguously. The rules should be easily applicable to all establishments, including the very small operators.

Many of these aspects were included in the Commission Communication of March 2006 on “*A renewed EU tourism policy: Towards a stronger partnership for European tourism*” and HOTREC asks the TRAN Committee to see to that the principles are applied in practice.

**4) Are there, to your knowledge, major differences in the visa delivery policies of Member States of the EU that would have consequences on the choice of the first country of entrance of non EU tourists and on the freedom of movement of those tourists across the EU? Can you see other issues related to the EU visa policy and national practices that have consequences for the tourism industry?**

Yes, in some cases there are big differences in the way visas are delivered by the Member States’ consulates or missions of the Schengen area. For example, the French consulate in Moscow has been less efficient in the last years with the result that many Russian tourists chose to go to Spain rather than to France.

Furthermore, HOTREC welcomes the extension of the Schengen area, which is due to take place at the end of 2007. Currently, many new Member States, like Hungary are visited less on a European round trip by third country visitors, because of the need of an extra visa, besides the Schengen visa.

See also the answer to question 2 in relation to the new “Community Code on Visas”.

**5) Do you have any suggestions on standardisation fields (or a quality labels) regarding tourist services that could be relevant at EU level? How?**

The recently adopted Directive on services in the internal market as well as the better regulation approach (which puts emphasis on “soft law”) favour the development of standards and quality schemes.

In relation to this new trend, HOTREC has the following remarks to make:

1. The vast majority of the European hospitality industry does not currently see the need for the development of European or international standards. Hospitality services are generally custom-made and tailored to the customer. It is the diversity - which reflects different cultures, traditions and geographical situations - that constitutes one of the major attractions and appeal for the customers/guests. Tourists do not expect to find standardised conditions everywhere they travel. On the contrary, their expectations vary according to their culture, their ages and the destinations as well as the purpose of their trips, be it a business trip or a trip for leisure. This diversity should be maintained and not be hampered by European or international standards.
2. If the hospitality industry would decide to develop standards, this exercise should remain fully market-driven and be based on commercial considerations. The initiative should come from the industry and does not need to be “*encouraged*” by public authorities at whatever level, national, European or international. Nor should the standardisation bodies – at whatever level - take own initiatives in this field. They are there to offer their methodology in case the industry needs it.
3. The current working methods of the standardisation bodies at European and international level reveal a democratic deficit, a lack of transparency and do not guarantee the fair participation of industry stakeholders.

HOTREC therefore suggests that, in the current context of the impetus given to the development of standards, and considering that the European Commission has recently given mandates to CEN to start working in relation to services, the EP TRAN Committee request a revision of the working methods of the European and international standardisation bodies to include the following aspects:

- Full and demonstrable consultation of the industry at all levels – national, European and international – accompanied with voting rights, should be systematically organised on both the desirability and the proposed contents of the standards relating to the tourism industry directly or indirectly;
- Clear criteria should define the representativeness of all parties consulted in the course of the development of standards. Details on the

representativeness of the stakeholders consulted should be made available;

- Transparency of all work undertaken (including early information and free access to all working documents for stakeholders) should be ensured;
- Transparency in the voting regime has to be ensured, i.e. to be able to recognise what level or which representative of an organisation votes on the proposals, especially when voting by correspondence;
- The issue of the costs of the development of standards, including the cost of compliance for industry, should also be looked at carefully;
- The impact on competitiveness: the consequence that small businesses have to pay proportionally more than large enterprises to adapt to standards should be taken in close consideration.

**6) Do you consider that consumer rights for tourists are sufficiently taken into account? If not what is missing? Why?**

Consumers and their satisfaction are, of course, at the heart of our industry.

The protection of consumer rights at EU level is well taken care of with a full title on the matter in the Treaty and a large Commission Directorate General focusing on health and consumer protection. As far as our industry is concerned, a great number of measures have been taken which relate directly to the protection of consumers: e.g. Directive on package travel, Recommendation on fire safety in hotels, Regulation on hygiene of foodstuffs.

We do not see any need to currently reinforce the EU legislation in this area. Should any problem arise at EU level, the industry is open to consultation and collaboration with consumers' organisations.

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