

EU Directive on Consumer Rights

Preambles of Significance to Tourism

(20) Definition of a Distance Contract

“Neither should a contract initiated by means of distance communication but finally concluded at the business premises of the trader be considered a distance contract”.

(27) Car Rental included in the scope of the Directive

“In relation to transport of goods and car rental which are services consumers should benefit from the protection afforded by this Directive with the exception of the right of withdrawal”

(28) Threshold of monetary Value

Maximum Threshold of minimum value should not exceed €50

(33) “The trader.....to inform.....in advance.....of.....deposit, including an arrangement whereby an amount is blocked on the consumers credit or debit card”

(49) “.....right of withdrawal inappropriate.....where the conclusion of the contract implies the setting aside of capacity.....e.g.; where reservations at hotels or concerning holiday cottages.....”

Significant Articles

(16) No right of withdrawal for accommodation, car rental services if there is a specific date or period of performance

(22) consumers agreement required for additional payments. Default options not allowable

Significant Paragraphs in Consultation

(12) Discretionary provision for concluding contracts by telephone – written confirmation

(17) Definition of a distance contract

(29) Could we get something done here to address our concerns on additional charges in relation to car hire and accommodation rental?

(38) Same as (12)

Department of transport, Tourism and Sport Observations

The Department for Transport Tourism and Sport welcomes the opportunity to comment on the proposed implementation of Directive 2011/83/EU on Consumer Rights.

In that regard the Department notes that while the primary purpose of the Directive is to protect consumers it will also serve to enhance fair competition among providers by helping to ensure that consumers can more accurately compare offers for comparable goods and services in the knowledge that the full cost of a transaction must be made known to them before they fully commit to a transaction.

In considering the proposed transposition of the Directive the Department of Transport Tourism and Sport has been particularly mindful of the vulnerability of tourists and visitors from overseas who have booked services from a considerable distance including non-EU areas. In many cases agreement to purchase a service is made from a distance and payment made (by way of a deposit or a substantial proportion of the total cost) before an overseas visitor arrives on our shores and it would appear that such transactions are covered by the Directive. Confirmation of this would be welcome.

It is not unusual, however, for overseas visitors to book a service without payment but with an incomplete understanding of the full cost and associated costs that may arise from that commitment. In such instances visitors may receive confirmation of a booking only to be advised of additional associated costs upon arrival at the offices of the provider e.g.; car hire (in the case of CDW or other costs associated with car rental) or self-catering (in the case of associated costs such as electricity usage or heating).

Technically, such contracts are completed on-premises but visitors who have just arrived from abroad have very little chance to exercise their right to walk away as they commence what will most likely be a short stay. While the number of such instances is small such bad experiences can lead to serious reputational for the tourism industry as a whole. In that regard the Department notes that while the Directives preambles make specific provision that the car rental industry is covered by the Directive, a significant proportion of car rental agreements will not fall under the scope as they will be classified as “on premises contracts”. The Department of Transport Tourism and Sport considers that this leaves a significant gap in the level of the protection afforded to overseas visitors which could and should be addressed in the national legislation transposing the Directive and in that regard the Department considers that there should be an additional element of protection introduced for such visitors, in the national legislation. This would help address complaints by tourists about car hire.

In regard to the specific questions raised in the consultation document the Department has no observations with the exception of Question 5 regarding the possible requirement of the consumer and/or the trader’s confirmation of an offer on a durable medium. While the Department would always favour the maximum possible protection for consumers the Department agrees that, on balance, such a provision could create significant difficulties for smaller tourism and hospitality enterprises. The Department also considers that such a requirement could create further difficulties for consumers – both domestic and overseas – who wish to make bookings close to the time of travel.