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REGULATORY SCRUTINY BOARD OPINION

Package Travel - Review of EU rules

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Brussels,
RSB

Opinion

Title: Impact assessment / Package Travel - Review of EU rules

Overall 2nd opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

The Package Travel Directive (PTD) is the EU legal framework for package travel and linked travel arrangements. It is designed to ensure the functioning of the internal market and the achievement of a high level of consumer protection.

The PTD applies to 'packages', which are combinations of at least two different types of travel services that an organiser, such as a tour operator, an online or physical travel agency, an airline or a hotel puts together for travellers. The PTD sets out pre-contractual information requirements and contains rules on the liability for the improper performance of packages, cancellations, as well as on the protection of travellers against the organiser's insolvency.

The initiative aims to review the 2015 PTD in light of the lessons learned during the COVID-19 pandemic as well as parallel initiatives in the area of passenger rights, such as the revision of the Air Passenger Rights Regulation.

(B) Summary of findings

The Board notes that the report has been substantially redrafted.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

- (1) The report is not sufficiently clear on the overall impact on consumers.**
- (2) The report should strengthen the qualitative analysis to better demonstrate the rationale for intervention.**

(C) What to improve

- (1) The report should provide a clearer analysis of the overall impact on consumers. It should be clear whether consumers will be better off in the end, reflecting the potential price increase (cost pass-through). It should also be clear on the underlying baseline estimates (e.g. industry operation costs vs package revenues) and justify the chosen analytical approach reflecting stakeholder evidence on potential price increase. In any event it should clarify whether the non-monetised benefits (higher consumer protection as a result of more legal certainty) will outweigh the potential price increase.
- (2) Given that the total quantified net benefit is rather low and the Benefit Cost Ratio is just above one the report should further strengthen the qualitative analysis to demonstrate more clearly the rationale for and clear value-added of the intervention.
- (3) The report should further develop the potential impact on international competitiveness by better substantiating it with quantitative evidence.

The Board notes the estimated costs and benefits of the preferred options in this initiative, as summarised in the attached quantification tables.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

| | |
|---------------------|---------------------------------------------------------------------------------------------------------------------|
| Full title | Impact Assessment on a proposal to revise Directive (EU) 2015/2302 on package travel and linked travel arrangements |
| Reference number | PLAN/2021/11358 |
| Submitted to RSB on | 6 September 2023 |
| Date of RSB meeting | “Written procedure” |

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

| I. Overview of Benefits¹ (total for all provisions) – Preferred Option | | |
|-------------------------------------------------------------------------------------------------|--------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Description</i> | <i>Amount</i> | <i>Comments</i> |
| <i>Direct benefits</i> | | |
| Reduction of consumer detriment in view of lower prepayments. | At least EUR 168.8 million per year. | The limitation of prepayments will improve the travellers' liquidity, as they will be able to dispose of their funds for a longer period before making the full payment. In addition, and more importantly, it will reduce the amount at risk of not being refunded in case of a cancellation. For the quantification a reduction of 5 percentage points of the average prepayments for packages was assumed. In addition, it was considered that 4.4% of packages are affected (in normal times) by financial loss. |
| Voluntary crisis fund at national level | Assessed qualitatively | If a national crisis fund is introduced, travellers will face less risks in not obtaining refunds in case of cancellations due to unavoidable and extraordinary circumstances. |
| Reduction of consumer detriment in view of timelier refunds. | Assessed qualitatively | Travellers will receive quicker refunds due to the introduction of the reduction of prepayments and the B2B refund right. No quantified data available. |
| Increased liquidity for organisers. | Assessed qualitatively | The introduction of the rules on vouchers and the B2B refund right will improve the organisers' liquidity, as they will quicker receive refunds from service providers and will be able to extend the period for refund to travellers by proposing vouchers. No quantified data available. |
| Introduction of voluntary vouchers – clarification benefits for travellers | Assessed qualitatively | There will be clarification benefits for traveller from the rules on voluntary vouchers, hence improving consumer protection. |
| Strengthened insolvency protection and coverage of vouchers and refund claims | Assessed qualitatively | Coverage of vouchers and refund claims by insolvency protection will improve consumer protection and increase the acceptance rate for vouchers, thus improving organisers' liquidity in case of crisis. |
| Increased ease of doing business and reduction in consumer detriment in view of clarifications. | Assessed qualitatively | The clarifications and specifications of several provisions in the PTD will provide clarification benefits to all stakeholders. No quantified data available. |

¹ Notwithstanding very elaborate consultations with stakeholders (i.e. public consultation, several targeted consultations and meeting, several workshops), stakeholders have not provided any quantitative data that would permit to assess quantitatively the expected benefits and costs of any options, including the preferred option. The (qualitative and as far as available quantitative) information provided by stakeholders is described in detail in the assessment of impacts of individual measures in Section 6. As a result, the cost-benefit assessment presented here could only be made on a qualitative basis.

| <i>Indirect benefits</i> | | |
|-----------------------------------------------------------------------------------------|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Possible decrease in insolvency protection costs for organisers. | Assessed qualitatively | The limitation of prepayments may over time result in a decrease in insolvency protection costs for organisers, which will be beneficial for their competitiveness. No quantified data available. |
| Possible costs savings related to monitoring of compliance by Member State authorities. | Assessed qualitatively | The simplification of several provisions and introduction of clearer criteria in the PTD (e.g. in relation to the amount level of penalties), may result in easier monitoring, less traveller complaints and potentially lower litigation costs. No quantified data available. |
| Administrative cost savings related to the suppression of LTAs | At least EUR 181.4 million per year. | The suppression of LTAs and related administrative simplification will result in organisers spending less time on choosing the right information form, thus reducing their administrative burden. The gains for organisers were calculated assuming a gain of 5 minutes per booking for choosing the right form and using the average wage for all the undertakings concerned. |
| Administrative cost savings for public authorities through easier monitoring | Assessed qualitatively | The simplification of several provisions and introduction of clearer criteria in the PTD is likely to result in easier monitoring, thus reducing the administrative costs for Member State authorities. No quantified data available |
| Administrative cost savings related to the suppression of LTAs | At least EUR 181.4 million per year. | The suppression of LTAs and related administrative simplification will result in organisers spending less time on choosing the right information form, thus reducing their administrative burden. The gains for organisers were calculated assuming a gain of 5 minutes per booking for choosing the right form and using the average wage for all the undertakings concerned. |
| Administrative cost savings for public authorities through easier monitoring | Assessed qualitatively | The simplification of several provisions and introduction of clearer criteria in the PTD is likely to result in easier monitoring, thus reducing the administrative costs for Member State authorities. No quantified data available |
| <i>Administrative cost savings related to the 'one in, one out' approach*</i> | | |
| Recurrent (direct) | At least EUR 181.4 million per year. | Administrative cost savings related to the suppression of LTAs. |
| One-off | - | - |

| II. Overview of costs – Preferred option | | | | | | | |
|------------------------------------------|------------------------------------|---------------------|----------------------------------------------------------------------------------------------------------------------|---------------------------------------|-------------------------------------------|------------------------------------------------|-----------|
| | | Citizens/Travellers | | Businesses | | Administrations | |
| | | One-off | Recurrent | One-off | Recurrent | One-off | Recurrent |
| For all measures taken together | Direct adjustment costs | - | - | - | - | Approx. EUR 60.5k (transposition) ² | - |
| Measure 1.1.1 | Direct adjustment costs | - | - | - | - | - | - |
| | Direct administrative costs | - | - | Approx. EUR 48.7 million ³ | - | - | - |
| | Direct regulatory fees and charges | - | - | - | - | - | - |
| Measure 1.2.1 ⁴ | Indirect costs | - | 100% pass-through of cost increases for organisers to travellers through package price increases; EUR 332.1 million. | - | - | - | - |
| | Direct adjustment costs | - | - | - | - | - | - |
| | Direct administrative costs | - | - | - | - | - | - |
| | Direct regulatory fees and charges | - | - | - | EUR 0 – the measure would be cost-neutral | - | - |

² Based on estimates in the ICF study.

³ Only one response was received to the specific question on administrative burden in the May 2023 targeted survey. According to this response: 1 hour per booking would be necessary. In view of the content of the justification obligation, this would not be a recurring cost, but should rather be considered as a one-off. In order to be conservative, however, it is considered that 2 working days of 7.5 hours of 1 information employee would be necessary to comply with the new obligation. The calculation is also explained in more detail in Section 6.

⁴ Measure 1.2.1 concerns the voluntary introduction of a crisis fund at national level. Considering its voluntary nature, it is impossible to foresee how many Member States may wish to implement such a fund. At present, this has only been done by Poland, with recourse to State aid, by incorporating this fund in an existing fund structure. Hence, the set-up costs for the Polish authorities were negligible. In case other Member States decide to start a crisis fund, they may choose a similar or a totally different structure. Such choice will have consequences for the administrative costs of public authorities, but also for the regulatory fees (and potentially administrative costs) requested from companies. For these reasons, it is not possible to estimate the potential average costs, and consequently the potential total costs that this measure may entail for the stakeholders in Member States that implement it. Therefore, these costs are not included in the table.

| | | | | | | | |
|--------------------------|------------------------------------|---|---|---|------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|
| | | | | | in the long-term | | |
| | Indirect costs | - | - | - | - | - | - |
| Measure 1.3.1 | Direct adjustment costs | - | - | - | - | - | - |
| | Direct administrative costs | - | - | - | - | - | - |
| | Direct regulatory fees and charges | - | - | - | - | - | - |
| | Indirect costs | - | - | - | Not expected to lead to any risk premium charged by service providers | - | - |
| Measure 1.4.1 | Direct adjustment costs | - | - | - | - | - | - |
| | Direct administrative costs | - | - | - | - | - | - |
| | Direct regulatory fees and charges | - | - | - | Costs, if any, minimal. EUR 0 | - | - |
| | Indirect costs | - | - | - | - | - | - |
| Measure 2.1 ⁵ | Direct adjustment costs | - | - | - | - | - | - |
| | Direct administrative costs | - | - | - | Possible cost impact in some MS due to covering vouchers and refund claims by insolvency protection. No quantified data available, but the costs are | - | |

⁵ Measure 2.1 includes the possibility to introduce a voluntary insolvency back-up fund at national level. At present, only a few Member States have a back-up fund, often with recourse to State aid. Considering its voluntary nature and the differences in the set-up of national insolvency protection systems, it is impossible to estimate how many Member States may wish to implement such a fund. It is also impossible to foresee what structure and set-up they may choose for such fund. Such choices will have consequences for the administrative costs of public authorities, but also for the regulatory fees (and potentially administrative costs) requested from companies. For these reasons, it is not possible to estimate the potential average costs, and consequently the potential total costs that the – voluntary – introduction of a national back-up fund may entail for the stakeholders in Member States that implement it. Therefore, these potential costs are not included in the table.

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|---------------|------------------------------------|---|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|---|---|
| | | | | | considered reasonable by 30% business respondents and 45% of insolvency protection bodies. ⁶ | | |
| | Direct regulatory fees and charges | - | - | - | - | - | - |
| | Indirect costs | - | Possibility that prices of packages might rise. No quantified data available. | - | Potentially higher insolvency protection costs. No quantified data available. | - | - |
| Measure 3.1.1 | Direct adjustment costs | - | - | Familiarisation with the new provisions. Approx. EUR 6.5 million ⁷ | - | - | - |
| | Direct administrative costs | - | - | - | - | - | - |
| | Direct regulatory fees and charges | - | - | - | Potential new costs for companies that would be considered organisers. | - | - |

⁶ Targeted survey for business associations, Q18 (N=10): in relation to the question if the costs of coverage of vouchers by insolvency protection would be reasonable, 1 company strongly agreed (10%), 2 tended to agree (20%), 4 strongly disagreed (40%) and 3 did not know (30%); in relation to the costs of covering refund claims being reasonable: 2 respondents tended to agree (20%), 5 strongly disagreed (50%) and 3 did not know (30%). Targeted survey for insolvency protection bodies, Q4 (N=11): in relation to the question if the costs of coverage of vouchers by insolvency protection during major crisis would be reasonable, 1 respondent strongly agreed (9%), 4 tended to agree (36%), 1 tended to disagree (9%) and 5 did not know (45%); in relation to the costs of covering refund claims being reasonable: 4 respondents tended to agree (36%), 1 tended to disagree (9%), 1 strongly disagreed (9%) and 5 did not know (45%). Targeted survey for business associations, Q18 (N=10): in relation to the question if the costs of coverage of vouchers by insolvency protection would be reasonable, 1 company strongly agreed (10%), 2 tended to agree (20%), 4 strongly disagreed (40%) and 3 did not know (30%); in relation to the costs of covering refund claims being reasonable: 2 respondents tended to agree (20%), 5 strongly disagreed (50%) and 3 did not know (30%). Targeted survey for insolvency protection bodies, Q4 (N=11): in relation to the question if the costs of coverage of vouchers by insolvency protection during major crisis would be reasonable, 1 respondent strongly agreed (9%), 4 tended to agree (36%), 1 tended to disagree (9%) and 5 did not know (45%); in relation to the costs of covering refund claims being reasonable: 4 respondents tended to agree (36%), 1 tended to disagree (9%), 1 strongly disagreed (9%) and 5 did not know (45%).

⁷ Assuming that each company would need 2 hours to do so, and based on wage assumptions made by the consultant in the supporting study.

| | | | | | | | |
|--------------------------------------------------------|---------------------------------------|-------|-------------------------------------------------------------------------|-------------------------------------------------|-------------------------------|---|---|
| | | | | | No quantified data available. | | |
| | Indirect costs | - | Possibility of higher prices of packages. No quantified data available. | - | - | - | - |
| Measure 3.2.1 | Direct adjustment costs | - | - | - | - | - | - |
| | Direct administrative costs | - | - | - | Negligible costs. EUR 0 | - | - |
| | Direct regulatory fees and charges | - | - | - | - | - | - |
| | Indirect costs | - | - | - | - | - | - |
| Measure 3.3.1 | Direct adjustment costs | - | - | Negligible one-off administrative impact. EUR 0 | - | - | - |
| | Direct administrative costs | - | - | - | - | - | - |
| | Direct regulatory fees and charges | - | - | - | - | - | - |
| | Indirect costs | - | - | - | - | - | - |
| <i>Costs related to the 'one in, one out' approach</i> | | | | | | | |
| Total | Direct and indirect adjustment costs | EUR 0 | EUR 0 | EUR 0 | EUR 0 | | |
| | Administrative costs (for offsetting) | EUR 0 | EUR 0 | EUR 55.2 million ^{8,9} | EUR 0 | | |

⁸ Considering that each company would need 2 hours to do so and based on wage assumptions made by the consultant in the supporting study.

⁹ Only one response was received to the specific question on administrative burden in the May 2023 targeted survey. According to this response: 1 hour per booking would be necessary. This seems, however, to relate to overall additional administrative work (such as dealing with a second payment, etc.) and not directly to administrative burden.



Brussels,
RSB

Opinion

Title: Impact assessment / Package travel – review of EU rules

Overall opinion: NEGATIVE

(A) Policy context

The Package Travel Directive (PTD) is the EU legal framework for package travel and linked travel arrangements. It is designed to ensure the functioning of the internal market and the achievement of a high level of consumer protection.

The PTD applies to ‘packages’, which are combinations of at least two different types of travel services that an organiser, such as a tour operator, an online or physical travel agency, an airline or a hotel puts together for travellers. The PTD sets out pre-contractual information requirements and contains rules on the liability for the improper performance of packages, cancellations, as well as on the protection of travellers against the organiser’s insolvency.

The initiative aims to review the 2015 PTD in light of the lessons learned during the COVID-19 pandemic as well as parallel initiatives in the area of passenger rights, such as the revision of the Air Passenger Rights Regulation (APRR).

(B) Summary of findings

The Board notes the additional information provided and commitments to make changes to the report. However, the Board gives a negative opinion because the report contains the following significant shortcomings:

- (1) The report is not sufficiently clear on the scale of the problems, the underlying market failures, and the specific objectives of this initiative. It lacks a clear narrative in terms of what can be expected from this initiative.**
- (2) The report does not identify all relevant (combinations of) options upfront. It does not sufficiently explain why alternative market and insurance-based measures are not considered.**
- (3) The level of impact analysis is not proportionate to the size of the problem and expected impacts.**
- (4) The report does not provide a consistent comparison of options in terms of effectiveness, efficiency, coherence and proportionality.**

(C) What to improve

- (1) The report should better explain the link and synergies with the Air Passengers Rights Regulation and how this initiative articulates with it. It should bring out more clearly the complementarity of the two instruments as well as the two revision processes. It should also better explain its relationship to the proposal for a Regulation on common rules for the enforcement of passenger rights, passenger rights for multimodal journeys and reimbursement of airline tickets bought via an intermediary. On that basis, the report should clarify what remaining gap this initiative fills.
- (2) The report should better demonstrate the scale of the problems, differentiating business-as-usual situations from exceptional crisis scenarios. It should bring out more clearly the underlying market failures, including by explaining why market and insurance-based solutions cannot offer the level of protection considered necessary. On that basis, it should present a clear narrative on what the revision is expected to deliver. This should feed in the definition of more specific objectives so that the success of this initiative can be measured.
- (3) The report should present all relevant (combinations of) options upfront and avoid identifying new combinations only late in the analysis. As the inclusion (or not) of the measure on strengthening national insolvency protection is one of the key policy choices, the report should present an additional option that includes this measure in addition to what is currently included in option A. The report should better explain why non-legislative measures have been discarded and existing market alternatives such as travel insurance have not been further considered.
- (4) The report should present a level of impact analysis that is proportionate to the size of the problem and expected impacts. It is not clear why the quantification for various types of costs and benefits is not provided. It should make further efforts to quantify the costs and benefits of the options, differentiated by the affected consumers and economic actors.
- (5) The report should further develop the analysis on the impact on consumers. It should be clearer about the benefits that the initiative will bring to them. It should provide the analysis of the likely cost pass-through. It should provide the reasonable estimates of resulting potential price increase of travel packages. Overall, the report should be clear whether consumers will be better off in the end considering all monetised and non-monetised benefits and likely cost pass-through.
- (6) When comparing the options, the report should present all options and impacts (cost and benefits, including key quantitative estimates). The report should better explain the used scoring methodology and apply it coherently throughout the impact analysis and comparison of options. The scores attributed to the options in the various summary tables should be fully consistent with the findings of the analysis. The report should review critically all scorings and their aggregation throughout the text. It should also better justify the relative weights of the three basic comparison criteria and ensure that these weights are coherent with the refined objectives of the initiative.
- (7) While the report states in the competitiveness test that SMEs may benefit from the preferred option, it should be more specific on how the initiative will affect their cost and international competitiveness considering the international context in which the sector operates, and the potential constraints the EU package travel sector would face with respect to issues such as business-to-business refunds.
- (8) The report should further develop the scope for simplification and cost reduction. It should elaborate the REFIT element in terms of simplification, in particular regarding burden

for SMEs and citizens. It should also explain how it has considered all recommendations from the ‘Fit for Future’ Platform in its opinion.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must revise the report in accordance with the Board’s findings and resubmit it for a final RSB opinion.

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|---------------------|---------------------------------------------------------------------------------------------------------------------|
| Full title | Impact Assessment on a proposal to revise Directive (EU) 2015/2302 on package travel and linked travel arrangements |
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