



The Azores – Preferred Destination of ECTAA

Review of ECTAA's activities and achievements for
period November 2013 – November 2014

Work programme for 2015

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Introduction

Dear Board Members,
Dear Members,

2014 marks the start of a new Commission and European Parliament for a 5 year term. The new Commission under the helm of Jean-Claude Juncker has taken office in November 2014 and will soon present its work programme for 2015. The new European Parliament, elected in May, has seen some small changes in its composition, with EPP and the Socialists still dominating the European scene, but also seeing a surge of the Eurosceptic groups. Hard to tell how this will affect the European policy and legislative environment for travel agents and tour operators in future.

A quick look at the legislative and non-legislative initiatives undertaken by the EU institutions and international organisations in 2014 give a mixed picture.

On the one hand, the positions considered and taken by the European Parliament and the Member States in Council on the revision of the package travel Directive and the insurance mediation Directive have sent shivers up my spine more than once. The positions of the European Parliament on both legislative proposals are very unsatisfactory and could be very damaging for our sector. A lot of hopes rest on the Member States to still get it right.

There is also a complete stale-mate on the revision of the air passenger rights legislation in Council due to, apparently, the Gibraltar issue. There is a risk that the air passenger rights proposal will not be adopted. That would mean the maintenance of the current legislation, open to interpretation and fertile ground for many more rulings from the European Court of Justice.

Slow progress also on the revision of the data protection framework. However, the EU PNR Directive proposal might get off the ground again, as Member States are increasingly pushing for the collection and processing of PNR data.

On a more positive note, the Commission has finally adopted a legislative proposal revising the visa code, proposing many amendments to make the visa application system more transparent and simpler for the many legitimate travellers that want to visit Europe but are deterred by the rigid and cumbersome visa rules. This now has to go through the Council and EP for approval.

At IATA level we have continued to monitor the developments in respect of the New Distribution Capability, which is promoted as an industry standard to sell air products and services, but which has many legal considerations, since it raises concerns of transparency, data protection, competition, etc. We are also following closely the New Generation IATA Settlement System, which promises a new settlement business model, based on faster cash-flow for airlines and more flexible accreditation and settlement methods for agents. This needs to be carefully reviewed.

I invite you to read the enclosed Activity Report, which summarises the most important developments and ECTAA's activities in the various dossiers. I take this opportunity to thank all Members for their active contribution to the ECTAA work and the ECTAA staff for their unyielding efforts to represent our businesses at EU and IATA level.

Lars Thykier
President

Brussels/Brussels, November 2014

Chapter I: Activity Report 2013/2014

1. CONSUMER AND INTERNAL MARKET POLICIES

1.1. Review of the Package Travel Directive

Issue: In July 2013, the European Commission published a proposal for the revision of the Package Travel Directive.

ECTAA position / action: ECTAA has been advocating for an enlargement of the scope of the Directive to include click-through combinations while limiting new obligations on the industry (assistance, liability...) towards the European Parliament and the European Council. It is the only way this Directive will achieve an effective level playing field. ECTAA also called for balanced and fact based obligations in order to avoid unnecessarily and costly burdens in a very competitive market. ECTAA has been in constant contact with officials from the European Parliament, the European Council and the European Commission in order to advocate the trade views on the ongoing revision. ECTAA assisted the Members in their relations with their national governments by providing legal advice and comments on the latest documents from the European Council. ECTAA also coordinated the intelligence sharing between Members, in order that the most recent information and documents circulate in due time between them.

Status of project and next steps: The European Parliament reviewed the proposal of the European Commission and voted a report in March 2014. The report, drafted and adopted within a very short period of time, was not satisfactory for ECTAA, both in terms of scope and obligations imposed on the industry. The European Council started reviewing the Directive proposal and, under the Italian Presidency, is trying to adopt a common position by the end of 2014.

ECTAA pursued its lobbying activities towards the Council, Commission and Parliament. Meetings were held with the Italian Presidency of the Council, the new EP rapporteur on the Directive as well as the Commission. ECTAA further encouraged its Members to brief their national delegations to the Council.

1.2. Review of the insurance mediation Directive

Issue: Travel agents and tour operators who sell travel insurances are currently exempted from the scope of Directive 2002/92 on insurance mediation (IMD). The European Commission presented a proposal to revise the existing insurance mediation Directive, abandoning the exemption for the mediation of travel insurance.

ECTAA position / action: ECTAA has been calling for a general exemption of travel insurance sold by travel agents. Based on figures provided by ABTA and DRV, ECTAA was able to brief MEPs, the Council and governments about the risks both for businesses and consumers to subject the mediation of travel insurance to the IMD obligations.

Status of project and next steps: The Rapporteur backed ECTAA's position but in the end the exemption was not maintained in the final report. The European Parliament has adopted its report in February 2014, including travel insurance within the scope. The European Council, under the Italian Presidency adopted its common position in November 2014. Among other it exempts the sale of travel insurance if the premium does not exceed 400€ per annum. ECTAA will continue to advocate at trilogue level for an exclusion of travel insurance sold by travel agents from the scope of the Directive. A quick adoption after the negotiations between the Council and the European Parliament is expected.

1.3. Recognition of professional qualifications and tourist guides

Issue: End of 2011 the European Commission published a proposal for a Directive amending the current Directive 2005/36 on the recognition of professional qualifications. It introduces improvements aiming at facilitating movement of professionals within the EU.

ECTAA position / action: ECTAA responded to both the consultation paper and the Green Paper published by the European Commission. In both contributions, ECTAA supported a simplification of the requirements for temporary mobility of professionals and the setting up of a professional card.

ECTAA has welcomed the Directive proposal; it will contribute to the mobility of tourist guides, which is fundamental for package travel organisers. Among other, ECTAA is working on:

- Ensuring that tourism guides are not excluded from temporary services and partial access;
- Exempting from the prior declaration requirement those professionals who provide their services exclusively to consumers escorted by them to other Member States, such as tourist guides.

Status of project and next steps: The European Parliament and the Council have adopted the revised Directive end of 2013:

- Movement of tourist guides will be facilitated by a requirement to show evidence of one year experience within the last 10 years.
- Recognition of the tourist guide profession will be facilitated by the introduction of a European professional card.

In the meantime, the European Commission has adopted on the 2nd of October a Communication announcing the start of an evaluation of national regulations on access to professions.

1.4. UNWTO Convention on the protection of tourists and tourism service providers

Issue: The United Nations World Tourism Organization has been working on a draft Convention on the protection of tourists and tourism service providers. The initial aim was to focus on providing assistance and repatriation to tourists in case of force majeure situations (e.g. ash cloud). However, in the subsequent discussions the scope of the project was enlarged to cover contractual rights in general not linked to force majeure situations.

ECTAA position / action: ECTAA was invited to participate to the UNWTO working groups to represent the travel trade. Initially ECTAA advocated limiting the scope to assistance and repatriation. A number of UNWTO Member States were however keen to expand the scope of the proposed Convention. ECTAA advocated with success to limit the scope of the proposed Convention to a simplified version of the EU package travel Directive.

Status of project and next steps: Due to multiple reasons (UNWTO staff turnover, revision of the EU package travel Directive), the UNWTO put on hold the work on the Convention. The new management just called another meeting. ECTAA will be represented at the meeting.

1.5. Misleading and comparative advertising for businesses

Issue: In October 2011, the European Commission launched a consultation on Directive 2006/114, which protects traders against misleading advertisements by other traders and lays down the conditions under which traders can compare their

products with their competitors' products in their advertisement. It aims at gathering information on unfair commercial practices affecting businesses, with a particular focus on misleading directory companies, and on options for improvement.

The results of the consultation showed that most respondents want the European Commission to increase protection against misleading marketing practices. The biggest problem identified was inefficient enforcement of the Directive at cross-border level. However, also the substantive rules were considered too weak and unclear to be effective against such schemes.

The Commission published a Communication on 27 of November 2012 based on the results of the consultation as well as information provided by the Member States on the implementation of the Directive.

The Commission proposes in its Communication to:

- Enhance legal certainty by banning misleading directory companies,
- Strengthen the penalties for infringements.

Enforce the implementation of the rules by:

- Designating an enforcement authority.
- Create a cooperation procedure between enforcement authorities.

ECTAA position / action:

ECTAA has responded to the consultation, highlighting in particular the following as being significant problems in Europe:

- Practices of companies offering an extension of trademarks;
- Practices of companies offering an extension of domain names;
- Practices of companies sending misleading payment forms;
- Unfair commercial practises affecting businesses in an online context;
- Misleading Directory Companies;

Status of project and next steps:

A legislative proposal is expected by the Commission. ECTAA will continue to monitor the issue.

1.6. Consumer Rights Directive

Issue:

The Directive on Consumer Rights (2011/83/EC) replaces, as of 13 June 2014, Directive 97/7/EC on the protection of consumers in respect of distance contracts and Directive 85/577/EEC to protect consumers in respect of contracts negotiated away from business premises. Member States had to transpose the Directive into national law by 13 December 2013. Art.19 of the Consumer Rights Directive provides that Member States shall prohibit traders from charging consumers, in respect of the use of a given means of payment, fees that exceed the cost borne by the trader for the use of such means.

This measure will have considerable consequences for the airlines and the application of credit card surcharges.

Currently the application of the credit surcharges is regulated by Art. 52 (3) of the Payment Services Directive which provides that '*3. The payment service provider shall not prevent the payee from requesting from the payer a charge or from offering him a reduction for the use of a given payment instrument. However, Member States may forbid or limit the right to request charges taking into account the need to encourage competition and promote the use of efficient payment instruments*'.

As regards payments using payment (bank) cards, Article 19 is currently not relevant for 13 Member States that have used the option offered by Article 52(3) of the Payment Services Directive to ban surcharging.

ECTAA position / action:

ECTAA welcomed the adoption of the Consumer Rights Directive, as it will significantly improve the quality of services and reinforce the protection of the EU

citizens' rights. The Directive will harmonize many aspects, among other the application of credit card surcharges.

1.7. OTA Sweep

<i>Issue:</i>	The Commission conducted in 2013 through national authorities an EU sweep of websites selling airline tickets, including online travel agencies (OTAs), to check whether they are complying with EU consumer protection legislation, for example the obligation to provide a breakdown of fares and airlines' terms and conditions, prohibition to charge fees for credit card payments, etc.
<i>ECTAA position / action:</i>	<p>ECTAA met with DG SANCO, which informed about the different steps of the ongoing sweep.</p> <p>The first step was the co-ordinated sweep action where participating Member States systematically checked different websites for practices in breach of consumer protection legislation.</p> <p>The second step was the enforcement action. This phase involved verification of suspected breaches. The Secretariat provided legal information necessary to understand and deal with this sweep, while pointing out the incoherencies in the different applications of EU consumer law by national enforcement authorities. The Secretariat contacted the Commission before the publication of this report but the Commission declined further dialogue.</p>
<i>Status of project and next steps:</i>	National authorities checked websites selling air travel and hotel accommodation, including websites of both traders and intermediaries. They checked in total 552 websites. After further investigation, national authorities found a total of 382 websites to be non-compliant with EU consumer law. They either contacted subsequently the national companies which run the non-compliant websites in order to bring them in line with EU consumer law or for companies established in another Member State asked for assistance of the authority in that Member State. When the report was published, in April 2014, 173 websites have been corrected. 209 websites were subject to further proceedings.

1.8. Payment services Directive and interchange fee Regulation

<i>Issue:</i>	The Commission published two legislative proposals in summer 2013 in order to adapt EU payments to the opportunities of the Single Market. Those proposals could slightly decrease the costs of electronic transactions by retailers.
<i>ECTAA position / action:</i>	<p>ECTAA monitored the issue but supports the position of the Europe's Payment Users Alliance:</p> <p>Debit: Provide an interchange-free electronic debit service (card/application) for all citizens by mandating the removal of the interchange fee on consumer debit cards.</p> <p>Credit: Lower the proposed caps for electronic credit cards/applications. This cap should be lowered proportionately in line with lowered debit caps.</p> <p>Commercial cards: Include commercial payment cards/applications within the scope of the proposed fee caps.</p> <p>Three-party schemes: Mandate a mechanism to include consumer and commercial cards issued by three-party schemes within the fee caps.</p>
<i>Status of project and next steps:</i>	The European Parliament adopted amendments to the proposal for a payment service Directive on April 2014. The matter was referred back for further examination to the committee responsible. The vote was postponed until a subsequent plenary session.

1.9. Green Paper on the Safety of Tourism Services

Issue: The Commission has published a Green Paper on the Safety of Tourism Accommodation Services in July 2014. The Green Paper asks whether the current safety requirements for accommodation providers set by standards or legislation at various levels (local, national, European) for various safety aspects (fire, CO2 poisoning, etc.) are sufficient, whether the latter are well enforced/controlled, whether different standards / legislation harm consumers / enterprises, whether other safety aspects need to be covered, etc.

ECTAA position / action: ECTAA is in the process of elaborating its position.

Status of project and next steps: The results of this Green Paper may give impetus for the Commission to propose either legislation or standards in the field of safety of accommodation.

1.10. Legal Committee

Issue: The Legal Committee met jointly with the Tour Operators Committee on 15 April and 9 October 2014.

During the April meeting, the joint Committees reviewed the outcomes of the votes in the European Parliament concerning the revision of the package travel Directive and fine-tuned ECTAA's position. They also reviewed the air passenger rights Regulation proposal, the data protection Directive, the European Tourism Quality Criteria Recommendation proposal and the Malev bankruptcy case. The second meeting focused essentially on the revision of ECTAA's position on package travel following the proposal of ABTA and DRV. An update on air passenger rights Regulation proposal, data protection and NDC have been provided, together with the presentation of a Commission's action plan on senior tourism and a consultation on safety of tourism accommodations.

1.11. Tour Operators Committee

Issue: The Tour Operators Committee met jointly with the Legal Committee - see point above.

2. TRANSPORT

2.1. Air Transport

2.1.1. Revision of Air Passenger Rights legislation

Issue: The European Commission adopted a Regulation proposal in March 2013 revising the Regulation 261/2004 on assistance and compensation in case of denied boarding, cancellations and long delays as well as Regulation 2027/97 as regards luggage incidents. It aims as (i) clarifying grey areas (e.g. definition of 'extraordinary circumstances'), (ii) extending rights (e.g. rights in case of rescheduling, denied boarding in case of no-show of passenger), (iii) new rights as regards mishandled luggage, including better transparency on luggage allowances, and (iv) better enforcement and complaint-handling procedures.

ECTAA position / action: ECTAA welcomed this legislative proposal but stressed the need to strike a balance between adequate passenger protection and the burden placed on industry to comply with these Regulations.

At European Parliament, many amendments proposed by ECTAA have been taken on board in the report with the exception of a few, such as the trigger points for delay compensation, the exceptional circumstances defence and the airlines' limitation to provide care in exceptional circumstances, where ECTAA called for a more balanced approach to passenger rights. The European Parliament also picked up ECTAA's suggestion to introduce passenger rights in case of airline failures, which are equivalent to mass cancellations.

The same points have been pushed at Council level, with some positive results. However, Member States are reluctant to consider passenger protection in case of airline failures.

Status of project and next steps: The European Parliament has adopted its opinion in first reading in February 2014. However, there are delays in the Council, as all air transport legislation proposals are blocked until resolution of recurring dispute over Gibraltar.

2.1.2. Passenger protection against airline failures

Issue: More than 100 European airlines have gone bankrupt during the last decade, affecting some 1.8 million passengers in Europe, often without any protection to recover the cost of the ticket or expenses incurred as a result of being stranded abroad.

This is not only detrimental for passengers, but also for:

- (i) tour operators who have to arrange alternative transport for their customers and
- (ii) travel agents who have to manage potential refunds according to IATA instructions and in regard of credit card charge backs when the agent acted as merchant.

Following the Commission's Communication in March 2013 proposing a number of non-legislative measures to protect passengers, such as the creation of a 'tool-box' of best practices to help Member States monitor air carrier's financial fitness, finally no binding measures were adopted at the EU level.

In the beginning of 2014, the Commission encouraged Member States to pursue a two-tier approach: on the one hand, prevention - maintaining and improving the quality of financial oversight and, on the other hand, contingency planning at Member State level in the event of airline insolvency.

ECTAA position / action: For many years, ECTAA has actively supported the introduction of legal protection of passengers against airline failures. In this respect, ECTAA met at numerous occasions with the representatives of the European Commission and European Parliament and lobbied in favour of the mandatory mechanism for EU carriers to protect passengers against their failure and to cover reimbursement /repatriation. Since 2012, ECTAA has been also closely following the Spanair and Malev insolvencies, given the important consequences for travel agents in EU. In the case of Malev, travel agents and their clients have still not been reimbursed more than 2 years after the airline went bankrupt. ECTAA and its Members have considered legal actions

During the ECTAA bi-annual meeting in June 2014, ECTAA invited a Belgian lawyer to make an extensive presentation on airline bankruptcy from a legal perspective.

Status of project and next steps: On request of ECTAA, the European Parliament has proposed to include in the current revision of the air passenger rights legislation (see point above) a new right to refund and re-routing in case of an airline failure or the revocation of its operating licence. The Commission and Member States are opposed to this.

ECTAA will continue to put pressure at EU level, while looking for new opportunities to move forward.

2.1.3. Complaint against IATA concerning PaxIS/DDS

Issue: ECTAA in conjunction with GEBTA filed a complaint in September 2009 against IATA based on the Regulation 80/2009 on CRSs concerning the identification of agents in commercial data distributed to airlines.

The European Commission addressed a Statement of Objections to IATA in November 2011. In March 2012 IATA launched a process to collect agents' consent about their identification in its intelligence products.

In June 2014, the EU Commission informed ECTAA/GEBTA that currently there are no sufficient grounds to act on the ECTAA/GEBTA complaint submitted in 2009.

ECTAA position / action: In the preliminary comments ECTAA pointed out that it is extremely difficult to measure the impact on travel agent's decisions to reveal its identity in PaxIS. ECTAA asked whether the Commission envisaged to take independently a decision in accordance with Article 15 (1) of the Code of Conduct and take adequate sanctions for the infringement of the Code of Conduct, as confirmed in the Statement of Objections of 18 November 2011.

In September 2014, ECTAA submitted additional comments. ECTAA particularly emphasized that the absence of any type of sanction for an infringement, which lasted for more than three years, will engender uncertainty with respect to enforcement of the Community legislation and may have a negative significance for the establishment of the future EU Big Data Policy and further development of the data-driven economy.

Status of project and next steps: The Commission's final decision is expected to be published before the end of the year. ECTAA will monitor further developments.

2.1.4. Air Matters Committee and Technology Working Group

Issues: The Air Matters Committee and Technology Working Group met jointly twice in 2014 (25 February and 16 September). Both meetings were mainly dedicated to developments of the IATA NDC project and New Gen ISS. Other items discussed in both Committee meetings included EU Affairs (items under the heading 2.1 – air transport), IATA matters (items under heading 3 - IATA) and other industry

affairs (e.g. airline bankruptcy – follow-up on Malev case).

2.2. Transport by rail

2.2.1 Industry initiative - Developing a Full Service Model for the distribution of rail tickets

Issue: CER (representing railway undertakings) and ET TSA/ECTAA/GEBTA have agreed to work together on an industry initiative to identify processes and interfaces required for a 'Full Service Model' (FSM), i.e. identifying all technical requirements for an efficient end-to-end rail distribution and retailing process.

ECTAA position / action: ECTAA and GEBTA have agreed to participate to the FSM initiative to facilitate the booking and issuance of rail tickets by ticket vendors. The Secretariat is part of the Steering Group and 2 travel agents' experts are participating in the technical groups to help draft the technical specifications.

Status of project and next steps: The first deliverable of the FSM initiative has been presented in June with the publication of an Overview Document. This consists of two parts, notably one providing definitions of basic concepts on which FSM will be built and a second part providing functional specifications of a possible solution.

The FSM team are currently analysing the list of the requirements that are expected to be validated via a Proof of Concept and the technical experts required for this.

3. IATA

3.1 PAPGJC and PAConf/37

Issue: ECTAA participated in the Passenger Agency Programme Global Joint Council (PAPGJC) Meeting on 27 March, 8 September and 15/16 October 2014. The Council discussed several issues and in particular the implementation of the New Gen ISS, possible solutions to improve the communication between IATA and travel agents and the TAC Budget.

As part of the PAPGJC September meeting, the PACONF/37 agenda was discussed. For the PAConf/37 agenda, ECTAA proposed to amend the Resolution 820e, 1.2.2.4 on the revision by the Travel Agency Commissioner (TAC) and to amend Resolution 890, § 1.4 on credit card sales. Regarding Resolution 820e, ECTAA pointed out that nearly 90% of cases brought to the attention of the TAC resulted from administrative issues where there was no airlines' money at risk. ECTAA proposed to amend the Resolution 820 e to allow the TAC to grant interlocutory relief, without any additional financial guarantee, if there is no financial risk associated with the dispute. Regarding Resolution 890, §1.4, ECTAA proposed to allow the use of credit cards issued in the name of the Agent, under certain conditions. A growing number of airlines could authorize travel agents to use the agent's card to settle ticket sales.

Status and next steps: PAConf/37 adopted most of the proposals on the agenda. Among ECTAA's proposals, the proposal to amend Resolution 820 e, 1.2.2.4 was unanimously adopted. The proposal to amend Resolution 890, § 1.4 was rejected. The results of the PAConf/37 will be the subject of the next PAPGJC meeting, scheduled in 2015.

3.2 New Distribution Capability (NDC)

Issue: Following the launch of NDC and the adoption of the Resolution 787 by the PSC (Passenger Services Conference) in October 2012, IATA has actively pursued the project, running in parallel a number of working groups and a very active communication campaign towards the industry. 2013 was particularly important for the project, as the US Department of Transportation approved Resolution 787 in August, however under strict conditions. In Europe, the discussions are still ongoing. Agents are particularly concerned regarding the compliance with the EU data protection legal provisions.

ECTAA position / action: The NDC project was reviewed by the Art.29 Working Party, an EU advisory body on data protection matters. In May 2014, ECTAA participated in the hearing organized by the Art.29 Working Party on the implementation on NDC and its potential incompatibilities with the data protection legal provisions. Following that meeting, ECTAA asked whether there was a possibility for the Art.29 Working Party to provide guidelines on the NDC project. During the summer ECTAA met with a number of Members States' Data Protection Attachés as well as the European Data Protection Supervisor to raise the awareness on NDC and its incompatibilities with the Data Protection provisions. The Data Protection Attachés showed particular interest in NDC and undertook to follow up this matter with their national Data Protection Authorities. Following ECTAA's efforts, the Art.29 Working Party confirmed that once NDC is fully implemented, it may potentially breach EU Data Protection provisions.

Status and next steps: The ongoing discussions and increasing concerns delay the implementation of the project. At the last PAConf/37, IATA stated that NDC is likely to be implemented in 2017.

4. FISCAL MATTERS

4.1. Revision of the special VAT scheme for travel agents

Issue: In summer 2014 the Commission has withdrawn its 2002 proposal revising the special scheme for travel agents.

In the meantime, some Member States have started transposing the ECoJ decision of September 2013 in the case C-189/11, which held that:

- TOMS must also apply to B2B supplies;
- The margin must be determined on a transaction basis (cannot be calculated globally).

The Commission has sent a letter of formal notice to Austria and Germany in July informing them that their national legislation is not in line with the ECoJ decision and requesting them to transpose the decision.

ECTAA position or action

ECTAA and GEBTA have analysed the negative impacts of the ECoJ decision on travel agents and worked on a position paper laying out the industry's views on the changes required to the special VAT scheme.

ECTAA and GEBTA have asked the Commission to include a new legislative proposal revising TOMS in their work programme for 2015. We have provided two exhaustive documents laying out the shortcomings in the current scheme and proposals how these shortcomings could be overcome by revising the scheme.

4.2. Review of VAT rules for passenger transport

Issue: The EU has mandated a study, the aim of which is to review the impacts of the current VAT rules and regulations related to the transport of passengers in the EU Member States, and the possible impact of changes in those rules and regulations. This study was included in the Commission work programme as part of its overall review of the EU VAT system. In the first draft of the report the consultants are considering to review 10 scenarios of possible changes, consisting of changes to VAT rates and other VAT rules (e.g. place of supply of services).

ECTAA position or action

In the past, ECTAA has always advocated the maintenance of the current VAT rules as regards the place of taxation (taxed where the passenger transport takes place) and applicable VAT rates / exemptions.

Status of project and next steps:

A second draft report of the study is expected before the end of 2014.

4.3. Fiscal Committee

Issue: The Fiscal Committee met two times in 2014, notably on 10 February in Tallinn and 24 September in Munich. They concentrated on identifying the shortcomings in the current VAT scheme for travel agents with a view to determining an industry position on the changes required to the special scheme and a proposal for such changes.

5. JUSTICE AND HOME AFFAIRS

5.1. Adoption of visa package

Issue: On 1 April 2014 the European Commission adopted a visa package consisting of two Regulation proposals. The first Regulation proposal proposes a number of amendments to the existing Regulation establishing the visa code. The objective of the amendments is to make travel easier for legitimate travelers and simplify the legal framework.

The second Regulation proposal establishes a new type of visa called 'touring visa' for travelers touring Europe and thus staying longer than the 90 days in any 180 day period foreseen by the Schengen short-stay visa. The aim of the Regulation is to facilitate travel of tourists, live performing artists, researchers, students, etc. that have a legitimate interest for travelling within the Schengen area for longer than allowed under the short-term Schengen visa.

ECTAA position / action: ECTAA has always called on EU decision-makers to make the visa rules simpler and more consumer-friendly. As study commissioned by DG Enterprise in 2013 and to which ECTAA and WTAAA Members participated, indicated that more flexible and accessible visa rules could lead to an increase in trips to the Schengen area of between 30% and up to 60% from six target countries analysed (including China, Russia and India) and could thus have a huge positive impact on Europe's economy and tourism.

ECTAA and NET, the tourism industry umbrella organisation, are working jointly to raise awareness of the benefits of the visa proposals at various events and through press communications.

Status of project and next steps: The discussions in Council have started but Member States are not very favourable to the amendments proposed by the Commission. The EP is expected to start its review in December 2014.

5.2. PNR transfers

Issue: The European Commission adopted in February 2011 a Directive proposal on the use of PNR for law enforcement purposes by European countries (EU PNR). In 2013, the legislative procedure has been blocked, the EP Civil Liberties Committee rejected the Commission proposal for a Directive on the use of Passenger Name Record data. In September 2014, the Ministers agreed on the urgency in adopting EU PNR Directive and called on the European Parliament to adopt as soon as possible its position to start negotiations with the Council. Following the policy debate on EU PNR held at the Justice & Home Affairs Council Meeting on 9 October, the Members of the Parliament raised this issue during the plenary session of 23 October 2014. The discussions at the LIBE Committee are scheduled in coming months.

At the international level, EU and Canada signed the new agreement on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Canadian competent authorities on 25 June 2014. It will replace the existing agreement from 2006. The goal of the agreement is to set a legal framework for the transfer of PNR data by carriers operating passenger flights between the European Union and Canada to the Canadian competent authority and the subsequent use of the data by these authorities

ECTAA position / action: In view of the upcoming discussions on EU PNR at the LIBE Committee, ECTAA took the opportunity to recall its proposed amendments to the Parliament's draft report. In particular, ECTAA welcomed the amendment of Art.2 (c), which clarified that PNR data is data captured and retained electronically by the air carrier in its

normal course of business. ECTAA pointed out that the sensitive commercial data must not be misused by the carrier for marketing purposes to the detriment of the passenger and the travel agent.

Status of project and next steps:

ECTAA will continue to monitor this matter.

5.3. Data protection

Issue:

The European Commission adopted in January 2012 a proposal for a new Regulation on general personal data protection and a proposal for a Directive on the use of personal data for law enforcement purposes. In March 2014, the Parliament adopted its position. On 12 March 2014 the European Parliament confirmed its strong support for the Data Protection Reform by voting in plenary the final reports. One of the ECTAA's concerns was the reinforcement of the obligations related to the data protection officer (DPO). Indeed, the Parliament went against the Commission's original proposal of exempting SMEs with less than 250 employees from the obligation of designating a DPO, if their core business is not data processing. Currently, the discussions progress under the Italian Presidency.

ECTAA position / action:

During the summer ECTAA intensified its efforts to voice its concerns about the obligation for SMEs to designate a data protection officer. In this respect, ECTAA met with a number of Member States' Data Protection Attachés to discuss this proposal from an SME perspective. ECTAA recommended maintaining the designation of the Data Protection Officer on voluntary basis. The Italian Presidency followed ECTAA's proposal and included the designation of the Data Protection Officer on voluntary basis in the Council's proposal.

Status of project and next steps:

On 9 October, the Justice and Home Affairs Council reached an agreement on Chapter IV of the draft regulation which covers obligations for data processors.

There are still several open chapters to be adopted before the new European data protection regulation will come into force. The Italian Presidency hopes that it will be able to reach an agreement on the full text before the end of the year. After this agreement, the Council will have to enter in trilogue negotiations with the European Parliament and the European Commission, which is likely to happen in spring 2015.

5.4. Alternative and online dispute resolution mechanisms (AODR)

Issue:

In November 2011, the European Commission published two proposals for a Directive on Alternative Dispute Resolution (ADR) and a Directive on Online Dispute Resolution (ODR).

The proposals on ADR/ODR are currently in informal trilogues between the Council and the European Parliament with the aim of reaching an agreement by the end of this year.

Status of project and next steps:

The European Parliament adopted two reports on alternative dispute resolution and online dispute resolution. The amendments adopted in plenary are the result of a compromise negotiated between Parliament and Council.

- ADR Mechanisms and its adoption by traders are in principle done on a voluntary basis. Nevertheless Member States are authorised to go further in the implementation of the Directive.
- It is possible for Member States to adopt more stringent provisions for specific sectors (e.g. mandatory procedure, obligation to respect the outcome of the ADR mechanism)
- ADR applies to both cross border and domestic disputes

EU Member States are required to bring into force the legislation and administrative provisions necessary to comply with the ADR Directive by 9 July 2015 at the latest. The ODR Regulation, which is binding on Member States directly, will take effect from 9 January 2016.

5.5. EU contract law

Issue: In May 2011, a special Expert Group on European contract law set up by the European Commission published a feasibility study on a European contract law for consumers and businesses. Further to that study, in October 2011, the European Commission published a proposal for a Regulation for a common European law applicable to cross-border contracts for the sale of goods concluded between a trader and a consumer or a SME. That law would only apply if the parties agreed to it.

ECTAA position / action : ECTAA contributed to the feasibility study to the European Commission. ECTAA also informed the Members of the content of the Regulation proposed in October, despite the fact that it does not concern services. It is however of interest because it creates a new legislative approach, aiming at putting in place an optional 28th legal regime to be added to each Member States' legal system. ECTAA monitors the legislative procedure, in order to make sure that it is not extended to services.

Status of project and next steps: The report has been adopted by the Legal Affairs Committee of the European Parliament and the Council. The Report concerns only the cross border sales of goods and services ancillary to the sale or the delivery of digital content. Other services are not covered. A first reading report has been adopted in January 2014 by the European Parliament. It is now up to the European Council to publish a common position.

6. ENTERPRISE POLICY AND TOURISM

6.1. Creation of a European Parliament Tourism Intergroup

Issue: In addition to the Committees in the European Parliament which prepare the opinions of the EP, intergroups can be formed by Members from any political group and any committee, with a view to holding informal exchanges of views on particular subjects and promoting contact between Members and civil society.

Status of project and next steps: NET, the tourism industry umbrella organisation, as well as ECTAA and its Members have called for the creation of an intergroup on tourism. This would enable MEPs from various Committee backgrounds to discuss topics that are cross-cutting policies. For example, tourism in the context of visa policy, data protection, health and consumer protection, competition, environment, regional development, employment, etc.

Status of project and next steps: NET has obtained support from more than 100 MEPs for the creation of the tourism intergroup. The EP will vote on the intergroups in December.

6.2. Implementation of the EU Communication on Tourism

Issue: Following the adoption of the Communication "Europe, the world's No 1 tourist destination – a new political framework for tourism in Europe" in July 2010, the European Commission is implementing 21 actions.

ECTAA position or action ECTAA follows or monitors a number of the actions. Among other, ECTAA has been part of a consortium carrying out an EU-funded project which has established an XML communication standard and interoperability framework as well as a B2B portal which will allow direct B2B transactions between suppliers in the destination countries and distributors in the source markets.

ECTAA has also contributed to the elaboration of an action plan aimed at increasing seniors travelling in Europe in the low and medium seasons. ECTAA has expressed some concerns in respect of the action to brand Europe as 'Best destination for seniors'.

Finally, ECTAA and its Members have contributed to two consultations launched by the Commission end of last year on (i) the future of European tourism and (ii) the regulatory and administrative framework affecting tourism. The results of these two consultations will be used to prepare the next Communication of the Commission on the European Tourism Strategy for 2015-2020. Priority areas seem to be: ICT in tourism, review of regulatory framework including taxation, quality and accessibility of tourism and European destination branding.

Status of project and next steps: ECTAA will continue to participate to the European tourism policy actions.

6.3. Annual European Tourism Forum (ETF)

Issue: Each year the European Commission organizes a European Tourism Forum to discuss the challenges of the sector and enhance the cooperation of stakeholders in tourism. This year, the ETF was organised around four parallel panel sessions, notably on (i) Digitalization and Innovation in Tourism, (ii) Sustainable Mobility and Access to Destinations, (iii) Training and Education in Tourism and (iv) Actions to promote Europe as Tourist Destination.

ECTAA position / action: The Secretary General of ECTAA was invited to speak in the first panel on ‘Digitalization and Innovation in Tourism’.

6.4. TOURISMLink

Issue: In 2012 the consortium formed by ECTAA, HOTREC, ITH, University Bocconi and ZN started a joint EU-funded project entitled TOURISMLink.

TOURISMLink is a demonstration action aiming at improving the competitiveness of the tourism sector by facilitating the flow of information among service suppliers, customers and traditional tourism enterprises through the creation of a pilot B2B platform where tourism service providers can manage and distribute different offers and products.

Status of project and next steps: The project has now been successfully completed in July 2014. TOURISMLink has developed a common European framework based on standards that establish interoperability principles among all stakeholders in the tourism sector (hotels, accommodation establishments, travel agencies and tour operators, tourism destination portals, restaurants etc.) and provides connection to the main distribution channels and operators, allowing seamless B2B integration and exchange of information.

7. STANDARDS

7.1. ISO standards for tourism services

Issue: ISO TC 228, the Technical Committee for standards in the field of “Tourism & Related Services” was formally set up in February 2005, despite lack of support from the industry. There are currently 10 standardisation projects, which includes adventure tourism and environmentally friendly accommodation establishments. A number of other potential standard projects have been presented for consideration by the Committee in May 2014, but do not yet have the official status of a new work item.

ECTAA position / action: ECTAA is not against standards per se, however standardisation in relation to tourism services should remain fully industry driven and any initiative in this field should have the full support of the users and the industry concerned.

ECTAA has opposed the proposed standards project for cruise services, as there is already European legislation offering adequate consumer rights and protection.

Status of project and next steps: ECTAA will continue to monitor the standardisation projects developed by ISO.

7.2. CEN ‘light’ standard on ‘Universal Design of Tourism Services’

Issue: CEN has announced the proposal for a new CEN Workshop Agreement (lighter version of a standard) on ‘Universal Design of Tourism Services’, the aim of which is to produce guidelines for tourism operators, enabling them to make their tourism services accessible to all customers. Travel agents and tour operators are included in the scope.

ECTAA position / action: ECTAA is not against standards on accessibility per se but considers it necessary to closely monitor this standard project, as it covers a very wide range of areas, such as advertising, ticketing, information on services, training, etc.

Status of project and next steps: The project is awaiting the green light from the Commission.

8. DESTINATION AND SUSTAINABILITY ISSUES

8.1. Destination and Sustainability Committee

Issue: The Destination and Sustainability Committee met twice in 2014, notably on 14 May and 12 November 2014. The D&S Committee reported on the booking trends at European level and discussed a number of destination issues. The D&S Committee reviewed all EU affairs in relation to sustainability and destinations, such as the Green Paper on safety of accommodation services, as well as other projects / tools, such as Travelife, etc. The D&S Committee has been extended in June to cover incoming tourism and will thus look into such issues as certification of destination management companies.

8.2. Destination Issues

Issue: ECTAA Members raised a number of issues or problems that tour operators encountered in destinations, such as new visa requirements or taxes, impact of civil unrest or terrorist attacks on tourism offer and quality in destinations, health and safety issues, etc.

ECTAA position / action: In some cases ECTAA raises these issues / problems with the competent national authorities or industry organisations to avert negative consequences for travel agents and tour operators.

8.3. Fight against the commercial sexual exploitation of children in tourism

Issue: Commercial sexual exploitation of children

Status of project and next steps: ECTAA continues to follow the UNWTO Work Task Force meetings to protect children from sexual exploitation in tourism, in order to keep track of all the initiatives carried out in this field and to inform Members accordingly

9. ENLARGEMENT – NEW MEMBERS

9.1. EU enlargement

Issue: 8 European countries are in line to join the EU: Albania, the Former Yugoslav Republic of Macedonia, Iceland, Montenegro, Serbia and Turkey are official candidate countries to the EU and will start or are already in the process of negotiating their accession. Bosnia and Herzegovina and Kosovo are potential candidate countries.

ECTAA position / action: ECTAA continues to pay particular attention to the associations of the candidate countries by :

- providing assistance in terms of the interpretation and implementation of the EU acquis and its consequences for the trade.
- attending conferences of the national associations of accession / candidate countries.

9.2. New Members of ECTAA

Issue: The Azores have accepted to become Preferred Destination of the Year in 2014. ECTAA held its semi-annual meeting in Ponta Delgada in June 2014. NTVA, the National Tourism Business Association, has also joined ECTAA in June 2014 and has become ECTAA's 33rd Full Member. In addition, a number of Travel Agents' Association from non-European countries have expressed interest in closer cooperation with ECTAA. As a result ECTAA has created a new membership category, the International Members, to foster closer relations with these associations.

10. WTAAA

Issue: Since 2005 ECTAA together with ASTA has been a founder Member of WTAAA – the World Travel Agents' Associations' Alliance. In 2008 WTAAA was incorporated in Brussels and the Secretariat is managed by ECTAA. WTAAA counts 8 Members and the organization is particularly active vis-à-vis IATA, the UNWTO, etc. WTAAA meets twice a year (spring and autumn) to discuss industry matters.

ECTAA position / action: Since the formation of WTAAA, ECTAA has been playing a leading role in particular as a key part of the delegation to the IATA and UNWTO meetings. Our President Lars Thykier has just terminated his mandate of Chairman of the WTAAA for the last two years.

11. ECTAA SURVEYS

ECTAA has circulated a few questionnaires, in most cases on behalf of Members, on specific subjects, including:

- Deregulation of the profession of tourist guide, April 2014
- Tour Operator's liability and obligations for not providing a part of a service due to a Force Majeure event, April 2014

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Chapter II: The Working Programme for 2015

The working programme for 2015 will include the following (the list is indicative and not limitative):

1. Consumer protection and Internal Market policies

- Review of the Package Travel Directive
- Proposal for a revised Directive on the recognition of professional qualifications
- Proposal for a revised Directive on insurance mediation
- Follow-up to the Green Paper on the Safety of Accommodation Services, including fire safety in hotels
- Monitoring of the evaluation process of the implementation of the Services Directive
- Monitor European market for card, internet and mobile payments

2. Transport

- Revision of air passenger rights, including Regulation 261/2004 on denied boarding, cancellations and long delays and Regulation 2029/97 as regards luggage incidents
- Initiate passenger protection against airline bankruptcy
- Safeguard and reinforce access to fares and transparency in air ticket distribution
- Protection of agents' commercial data (follow up on complaint against PAXIS/DDS)
- Border control and data transfer issues (ESTA, APIS, Secure Flight requirements, etc.)
- Revision of the slot allocation Regulation proposal (as part of the adoption of the airport package)
- Legislative and non-legislative initiatives on smart ticketing, multi-modal information and ticketing, information and on-line reservations
- Rail standardization of interfaces and processes (TAP TSI implementation and 'Full Service Model')

3. IATA issues

- Pursuing with the review of the Programme and safeguard of agents' interests
- NDC
- New Gen ISS project

4. Fiscal matters

- Revision of the margin taxation scheme following the judgement of the ECoJ in the 8 TOMS cases
- Implementation of the Communication on the future of the EU VAT system, especially the review of the VAT rates for tourism services and place of supply rules for passenger transport

5. Justice and Home Affairs

- Review of the EU visa code
- Directive proposal in the field of consular protection
- EU PNR
- Protection of personal data
- Monitoring of work of the European Commission on EU contract law
- Proposal for a legislative instrument on alternative dispute resolution mechanisms
- Communication on a common European approach to collective redress
- Monitoring of the legislative procedure for adoption of the proposed Regulation on a common European sales law

6. Industry

- Destination & sustainability issues

7. Tourism

- Liaise with the Commission and monitor the implementation of the Tourism Communication
- Standards (ISO, CEN)
- Regulation proposal for a European Tourism Quality Label and other quality standard initiatives
- Possible new accessibility standards and proposal for a European Accessibility Act

8. Relations with other industry partners

- GEBTA, GDSs, WTAAA, NET, AEA, IACA, etc.
- Preferred destination partners of ECTAA
- International partners

9. Other

- Monitoring and possible participation to EU call for tenders and proposals