



Response to 2013 DCMS Review of Balance of Competences between UK and EU regarding Culture, Tourism and Sport

Introduction

ETOA welcomes the opportunity to contribute to this review. We represent 650 businesses and other organisations based throughout the EU and elsewhere. Our purpose is to influence policy affecting the tourism that takes place in Europe. To this end we engage with industry, EU bodies, national and local governments and NGOs.

We group our policy work into four parts:

1. Regulation and taxation
2. Operational Delivery
3. Market Development
4. Barriers and Borders

Key issues for EU tourism

Europe is the world's primary tourism destination but this status is not assured; we cannot be complacent. EU competence in tourism is thus welcome since many issues are international in scope. Member States' national tourism organisations' (NTO) efforts are, understandably, largely directed towards marketing individual countries and their constituent cities and regions. We believe that Europe's tourism should operate as more a competitive and integrated market than is the case now. We therefore support EU competence in matters affecting tourism. The main obstacles as we see them are:

1. Taxation¹
2. Visa policy²
3. Package travel regulation³
4. Protectionist practices in tourism services in evidence in some Member States
5. Quality of tourism infrastructure and foreign language services.

Future options and challenges for the UK

In the context of balance of competences, we have two reflections. First, the UK should be vigorous and persuasive in the cause of better EU legislation in this area. At present we are plagued by much ill-suited regulation that is erratically followed and enforced. In our view, the consequences of much of this legislation, from indirect taxes to current and

¹ See 'Tour Operator Margin Scheme' on page 7

² See 'Visas' on page 8

³ See 'Package Travel Directive' on page 9

proposed package travel regulations, damage tourism's competitiveness in the EU. On tax, we should top taxing exports, i.e. holidays sold to non-EU consumers, and stop putting EU destinations at a competitive disadvantage by allowing non-EU destinations to be sold tax free. On package travel, the proper and desirable protection for consumers and their money can be achieved through non sector-specific regulation and insurance, thereby reducing cost, confusion and complexity. Second, the UK, through Visit Britain, may wish to reconsider its engagement with the ETC, of which it is currently not a member. It could re-join and influence their work on how best Europe may continue to attract visitors from other markets and how common funds may best be applied to that end; all member states stand to benefit.

The rest of this paper follows the review's questions. We would welcome any opportunity to discuss these matters more fully. Please contact tfairhurst@etoa.org.

Tourism Questions

Is there added value to UK tourism in EU activity to co-operate with non-EU countries' tourism sectors?

Potentially, yes.

1. Through the activities of the European Commission (EC).
2. Through the activities of the European Travel Commission (ETC).⁴

In 2011 the EC sought to develop links with non-EU national tourism organisations and thereby catalyse private sector activity through the 'Low Season Tourism Initiative' intended to increase tourism volume between South America and Europe by at least 50k. Aside from the challenges of determining which tourists are travelling to Europe that would not have done so but for this initiative, it is too early to say what the benefit has been.⁵ Many organisations are participating and we wish the initiative well, but the critical factor will be changing market behaviour in the private sector. Industry needs to evolve product that suits emerging markets such as Brazil, while retaining its focus on traditionally vital markets such as the USA and Japan. The private sector needs to see the benefit, or incentive, arising from any publicly funded scheme and respond with market-led initiatives. If the EU can broker or catalyse better relations with the private sectors in

⁴ ETC website: <http://www.etc-corporate.org> As above, the UK, in the form of Visit Britain (VB), is not currently a member (nor are the NTOs of France and the Netherlands), though UK tourism still stands to benefit from any success ETC may have in promoting Europe. Whilst it is not our place to comment on spending decisions of individual NTOs, it gives pause for thought that the ETC is not fully representative or at least does not enjoy the endorsement and participation of all EU countries' NTOs. If the decision not to participate arose from an analysis of individual countries' return on investment in ETC membership, that emphasises the need on the part of both NTOs and ETC to demonstrate a return on their activities. The difficulty is always to tell how much business arises through specific publicly funded marketing efforts, and what would have happened anyway. VB has a commercial arm that sells to worldwide audiences via <http://www.visitbritainshop.com/>; ETC does not.

⁵ Details on the 50k initiative at <http://ec.europa.eu/enterprise/sectors/tourism/50k/>

non-EU origin and EU destination markets then new products and business processes adapted to those markets will evolve. This would benefit UK tourism.

The ETC carries out or otherwise makes available valuable research and seeks to promote Europe as a destination worldwide through events and partnerships.

How does competition for tourists across Member States impact on the effectiveness of EU action in this area?

Promotion. To the extent that the EU can catalyse interest in 'brand Europe', this is welcome. 'Europe' is seen as a destination, and there is no reason why it should not have a voice alongside national voices. The EU's activities related to tourism does not, in our view, prejudice the efforts of NTOs.

Our view is that it does not matter which country visitors pick for their first visit to Europe; we just want them to come. Once people have enjoyed one trip to Europe there is a greater chance of them coming back and making positive recommendations. Many long-haul visitors travel to more than one EU country on any given trip; many explore different countries on subsequent trips.

The idea that there is a genuine competition between countries seems questionable to us. Italy and Ireland are not comparable; they have different climates, cultures, food, landscape and language. It is not like choosing between different supermarkets or cars.

Tax. There certainly are variations in competitive (dis)advantage that are within EU and/or national (or regional) control. Croatia, for example, has just lost a competitive advantage on joining the EU since any EU operator must now add VAT to the gross margin of a package holiday to Croatia sold to an EU citizen. The UK imposes heavier flight-related taxes and visa fees than other countries. Italy has witnessed startling increases in costs related to coach transport and overnight bed taxes. VAT regimes vary enormously both in rate and application. Many of these taxes change at short notice.

Visas. The EU is able to act on behalf of the 26 members of the Schengen area. Since the UK does not participate in the Schengen area it has lost out on business from markets whose citizens require visas in two respects. First, the UK has been dropped from many multi-country itineraries; anecdotally, some operators said they dropped 80% of multi-country inventory incorporating UK + Schengen countries following the implementation of the Schengen agreement. Second, the UK's visa cost is relatively high compared to a Schengen visa. Visit Britain's data on the UK balance of payment deficit for tourism makes thought-provoking reading in this respect.⁶ The divergence of spend at home versus abroad grows sharply from 1997/98, a two year lag after the Schengen area came into existence thus consistent with the relatively long planning cycle for long-haul tourism. The narrowing of the gap 2009-2011 may be attributable to more UK citizens choosing to holiday at home rather than more international visitors. In short, the impact of any competition there may be between the relative appeal of the UK and other EU countries pales into insignificance when compared with the relative appeal of the 26

⁶ See UK's Tourism Balance of Payments spreadsheet available via <http://www.visitbritain.org/insightsandstatistics/inboundvisitorstatistics/trends/longtermtrends.aspx>

countries available on a Schengen visa versus 1 for UK (and an easier process for obtaining an Irish visa if UK visa already granted). We believe there are discussions in progress about back-office visa collaboration with Schengen countries; this is welcome.

General Questions

What evidence is there that EU action in the areas of Culture, Tourism and/or Sport benefits or disadvantages the UK?

Visas. The EC, as the body responsible for the Schengen visa code and its implementation, is in a position to consolidate the Schengen area's competitive advantage, even if that is not the intention. DG Home can, for example, conduct bilateral discussion with Russia about visa relaxation. The UK has not been part of these discussions and is at a competitive disadvantage thereby.

Borders and Welcome. It may well be possible for the EU to encourage an area-wide effort to improve the quality of welcome and service visitors receive, from their first contact with a consulate, to arrival at an airport and beyond. An EU-wide foreign visitor survey would assist. ETOA has conducted research in origin markets via the industry. Our belief is that the EU loses business through insufficient attention given to the way visitors (and on occasion their accompanying tour guides) are treated by officialdom throughout the area. The impact of one visitor's bad experience at the hands of a seemingly disrespectful, suspicious and aggressive official very quickly grows through re-telling. Once past the border, there is a clear need for more competence and signage in key languages such as Portuguese and Japanese. There can be an unhappy relationship between the citizens of a city that thrives on tourism and the tourists themselves; there is much scope for mutual benefit but it needs intelligent consultation, planning and execution.

Promotion. The European Commission has initiated various projects, for example to promote interest in lesser-known destinations and encourage off-season travel; these are strategically sensible objectives recognising that we need to work out how best to use our tourism capacity. The trick is to influence market behaviour, and any analysis of these initiatives' success ought to be evidence led.⁷ Notable in the EC's work is the recognition that European tourism product may often have a multi-country dimension; there has been much work on 'cultural routes' and regional tourism, e.g. connecting countries through which the Danube flows. The UK stands to gain from a wider acceptance among industry and potential tourists that lesser known destinations are worth exploring: London currently enjoys a disproportionate amount of the UK's international visitor spend. Similarly, it would benefit from more off-season travel, whether through phased school holidays within the EU or otherwise.

Visas. We re-emphasise the concern about visas in connection with promoting Europe or individual members states as a destination. The problem is not whether Europe is interesting or appealing, nor even whether it is affordable (though there are concerns on that score), but whether alternative destinations that do not require visas are equally appealing. They are, and are often easier to deal with from the point of view of entry.

⁷ For details on Tourism Unit's projects see left menu bar on http://ec.europa.eu/enterprise/sectors/tourism/background/index_en.htm

Our belief is that, especially if funding is scarce, more national and EU government effort should be directed at improving visa processes and reforming regulation, rather than subsidising marketing efforts, or providing (often very expensive) opportunities to network in long-haul origin markets which in practice are financially out of reach of the many SMEs that make up much of the industry.⁸ Once again, the utility of such events run by both EU and NTOs is affected by prevailing visa requirements. There is not much point in spending a lot of money marketing in China or India if outbound agents and companies in both countries have tired of navigating the visa processes for UK or Schengen and cheerfully recommend other destinations to improve their chances of securing a sale that leads to travel, thus generating income. The UK is home to some very enterprising and skilled inbound operators with extensive networks in origin markets whose citizens need visas to visit the UK; we would urge government to listen to their concerns and would be pleased to help convene such a meeting.

Do you think the EU should do more, or less in relation to Culture, Tourism and Sport, and why?

As regards tourism there are various valuable contributions.

1. **Tax and regulation.** There is near infinite scope to improve the competitiveness and efficiency of EU tourism through EU regulatory reform. The obstacles are significant: some measures will require unanimity. The main issues are the Tour Operators Margin Scheme (TOMS); VAT; Package Travel; Working Time.
2. **Data.** Tourism is beset by poor data quality. The divergence between various methods of counting leisure visitors is well known. This has been recognised by the EC.
3. **Standards.** We respectfully suggest that the current trend towards the standardisation of services may be misguided. The EU could take a lead in preventing voluntary standards becoming the basis for legislation. This would have no impact on necessary minimum standards for health and safety and consumer financial protection.
4. **Collective response.** If and when unfortunate circumstances arise, be they bird 'flu, perceived terrorism risk or otherwise, the EU in collaboration with destination markets and its counterparts across the world can play a role in ensuring accurate information reaches origin markets in a quick and credible way. Long-haul tourism is notoriously fickle; it takes very little to discourage it.

What are the benefits or disadvantages of directing funding through the EU rather than national arrangements?

Beyond the UK's overall contribution to the EU we are unaware of any funding to a European body concerned with tourism. In general, we think there would be benefit to member states being much more collaborative in their marketing efforts; present arrangements were not designed to support this.

⁸ Declaration of interest: we run trade networking events in Europe and are keenly aware of the market. We enjoy a positive relationship with VB with whom we collaborate on producing and marketing a trade event in London every March, and support their efforts in hosting international buyers on various itineraries throughout Britain.

Have you noticed any change in EU activity or emphasis since the 2009 Treaty of Lisbon and is this welcome?

The Tourism Unit in DG Enterprise has grown in size and has been charged with implementing various initiatives. There has been very welcome inter-service discussion on matters affecting tourism, such as visa policy.

What other areas of EU competence or activity impact on your sector and how?

1. Taxation (TOMS and VAT)
2. Package Travel
3. Freedom to provide services
4. Working Time
5. Consumer protection

What international bodies or arrangements are important to your sector beyond the EU?

1. Warsaw Convention 1929, as amended (an international agreement related to air travel and compensation.)
2. Standards bodies: the processes by which standards are developed and how they are used; scope for them becoming a reference point for regulation and what implications that has.
3. Other private sector tourism associations in origin markets such as BRAZTOA, JATA, PATA, USTOA.
4. Various other trade bodies such as IRU (International Road Users Association), CLIA (Cruises).
5. Bilateral relations with officials in key non-EU markets such as Russia.
6. NGOs such as OSCE, UNWTO and WTTC.

How could the EU co-ordinate its activity in the areas of competence to greater effect?

More inter-service collaboration, and more prominence given to tourism given the size of its significance to the EU economy. In 2012 contributed 9.3% of total GDP and provides 8.7% of jobs.⁹ We believe it can struggle for attention due to its very fragmented and diverse composition. It includes a very large number of SMEs from individual B&Bs and Gîtes; small hotels and niche attractions; tour guides to owner-driver coach services. At the other end of the spectrum are global hotel chains and wholesale tour operators. Their needs and scope for action differ. A large tour operator can move offshore to avoid a tax regime; a B&B cannot. Tourism is affected by a diverse group of DGs (and UK government departments at a national level).

1. DG Justice: package travel.
2. DG Health and Consumers (Sanco): consumer rights; health and safety; working time.
3. DG Enterprise and Industry: the Tourism Unit; standardisation.
4. DG Internal Market: professional qualifications: freedom to provide services; competition.
5. DG Home Affairs: visa policy.
6. DG Taxation and Customs Union: TOMS, VAT framework agreements.
7. DG Mobility and Transport: regulation related to driving.

⁹ Source: page 1 of WTTC 2013 report
http://www.wttc.org/site_media/uploads/downloads/world2013_1.pdf

Appendix: Abstracts from current ETOA policy statements

1. Tour Operators Margin Scheme ('TOMS')

Summary

The Tour Operators Margin Scheme affects how much sales tax is paid by a tour operator that buys and re-sells travel services as principal. It is one of the most influential pieces of legislation on a tour operator's profitability and will thus remain a strategic priority for ETOA. It was introduced under the 6th VAT directive of 1977 and is long overdue for reform. It only applies to operators established in the EU.

TOMS VAT is charged by the operator's country of establishment on the gross margin of a tour. The gross margin is the difference between the retail price and the cost of production. TOMS VAT is deemed to be included within that gross margin, i.e. as if the operator had added it in order to arrive at the retail price offered to the consumer. The rate depends on operator's country of establishment.

The motive was practical: an operator pays VAT-inclusive prices for hotels etc. so it is not obliged to register for VAT for every country in which it books hotels as it cannot recover that VAT. Those countries retain VAT paid by the tour operator on the tour components produced there, and the country where the operator is established collects VAT on the activity of tour operating. There are variations in application within the EU: some exempt B2B sales from TOMS, some do not.

About 10 years ago the Commission introduced a proposal for a special VAT scheme for travel agents; this was subsequently revised but not re-published. As changes to VAT regulation required unanimity in the European Council (they still do) discussion stalled. There are markedly different views on VAT among EU states, e.g. in relation to the use of discounted rates and exemptions. Meanwhile, it is unclear whether the proposal has been formally withdrawn or if it could still go forward; the current status is being ascertained via VAT policy unit at the Commission.

If the proposal had been withdrawn, the Commission could reconsider the question afresh; an 18-month process including consultation and impact assessment should be expected before a new proposal can be published. Once the Commission makes a proposal, it will still need unanimous support in the European Council before it can be presented to the European Parliament, who may then accept or reject the proposal. This all takes place in the context of an overall review of VAT current underway on matters such as variation of discounted rates.

Meanwhile, a very strong opinion from a European Court advocate-general was published in June 2013 that criticises the confusion caused by legislation and the variations and ambiguity in its transposition. This opinion arose in a case going through the European Court of Justice related to domestic variations in TOMS implementation: several member states assert the right to operate TOMS on B2B operators (presumably to increase domestic tax take) the Commission disagrees. On the substantive question at issue, the opinion suggests that member states should be allowed to operate TOMS on operators selling B2B. If this leads to a levelling up of tax regimes whereby all member states must levy TOMS on B2B operators, the flight from EU establishment is certain to accelerate. This would be very damaging to EU business, reduce its tax base and employment opportunities in the sector.

In summary, TOMS is anti-competitive and economically damaging to EU in effect because: it taxes exports; it causes operators to leave the EU; it increases cost of holidays to EU destinations sold by EU operators. Protracted uncertainty about future policy is very damaging. Any EU reform to VAT rules must be very sensitive to its effect on tourism.

2. Visas

Summary

Visa requirements and processes influence inbound tourism to Europe. Where they exist, issues range from lack of online processes or mother-tongue application forms to inconsistent documentary requirements; difficulties with appointments to cost of appearing in person. Visa requirements are inextricably linked to politics. Changes in requirements cause changes to travel patterns and market demand very rapidly. ETOA's research has shown that the EU loses millions of euros through lost business; prospective visitors go elsewhere. Countries who are part of the Schengen visa area are obliged to follow its visa code. ETOA members have reported many anomalies; these have been brought to EC attention.

The UK and Ireland operate independent regimes. Market evidence suggests this harms their prospects. For example, following the introduction of the Schengen visa, the number of multi-country continental itineraries that included the UK dropped. Both UK and Ireland are considering ways of expediting visas if applicants have previously travelled to the area or already have a Schengen visa. Where visa requirements remain they should be tailored both to the threat and the market.

That the EU suffers economic harm due to visa requirements is accepted; the challenge is to enable policy makers to consider change. Security, the prevention of terrorism, and illegal immigration need not entail onerous visa processes; they are compatible with a pro-tourism strategy and the jobs that would flow from it. To assist the political process the economic impact on the electorate must be shown.

3. Package Travel Directive

Summary

The Package Travel Directive, as implemented by EU national governments, affects anyone who sells a package direct to the consumer. A package is currently defined as any combination of two or more tour components that last for at least 24hrs, or include accommodation. The main provisions relate to requirements to protect client money through insurance, bonding or a trust (some of which are in effect duplicated by air tour operators who must also post a bond with their civil aviation authority or similar). Other provisions relate to contractual information requirements, service substitution, a duty to repatriate etc. The directive was written in the late 1980s, pre-dating the world of online sales. This was a time when an annual holiday was still an unusually large expense for most consumers, and credit card (with the purchase protection that comes with it) use was less common.

Following de-regulation of airlines and the arrival of the online marketplace, prices have come down, consumer sophistication has increased, and components that were typically available only in packages may be bought separately by the consumer. The PTD therefore imposes a significant and costly regulatory burden on the 'traditional' retail tour operator that is not shared by much of the rest of the industry and an uncompetitive market has developed in consequence. Airlines selling flight only, and hotels selling accommodation only are exempt. Online consolidators that allow self-packaging with price transparency for each component are probably exempt, though self-packaging has been subject to legal uncertainty.

The European Commission (EC) has conducted a review over the past few years. This has been the subject of repeated delay. ETOA has participated in its consultation and made a strong case for light-touch regulation in order not to drive more tour operators outside the EU. A new directive should recognise the increased sophistication of consumers in an online marketplace and the manifold means by which consumers are protected through non-sector-specific legislation.

Discussion has continued in Brussels – the latest we hear is that the Commissions proposals will be published in July. It seems reasonable to infer that there may still be considerable distance between the position of various member states, which echoes the marked differences between the domestic implementation of the PTD in operation today. The main question remains: will any new proposal be a 'levelling up' i.e. an attempt to bring more business models within the reach of the consumer protection a revised PTD may provide, or will there be recognition that existing consumer law, developed since the introduction of the PTD is largely sufficient.

ETOA believes that consumer protection available through non sector-specific regulation is largely sufficient and that divergence in domestic tourism-specific regulation damages cross border trade. Thus, any revised PTD could aim simply to address any sector-specific concerns not otherwise covered. If the proposal attempts to incorporate more transactions within the PTD European tourism's competitiveness will be damaged and consumers will be disadvantaged.