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**From:**  
**Sent:** 07 January 2014 14:46  
**To:** Balance of Competence Review  
**Cc:**  
**Subject:** Balance of Competences: Competition and Consumer Policy Review

Dear Balance of Competences Team,

The British Hospitality Association is the national representative association for the hotel, restaurant and catering industry. The UK hospitality industry employs some 2.7 million people in about 180,000 businesses, over 80 per cent of which are micro businesses and over 97 per cent are micro or small enterprises.

In terms of consumer policy, we would draw attention to two areas of EU legislation:

First, the Package Travel Directive (PTD). We would argue that, in one particular, the Directive has disadvantaged our industry in the UK. The effect of the Directive is that a package consisting of a hotel stay and an activity such as a theatre trip or a round of golf is within scope and therefore the organiser must handle deposits and take out insolvency insurance in the ways required by the Directive. This has put off UK hoteliers from offering such packages. As part of the current review of the Directive, the UK government is very helpfully supporting the industry in seeking to amend it so that such packages would not be subject to the restrictions described above.

If there were no PTD or only UK legislation protecting UK residents taking overseas holidays, there would be no provision of the type described.

Second, the Distance Selling Directive. Its practical impact on our industry is relatively small, because most distance selling of hospitality services, along with leisure and transport services, is exempt from most of the Directive's requirements as a result of lobbying in the 1990s, largely by the UK industry. If it had not been for this lobbying, the exemption of hospitality services would not have applied and this would have been damaging to the industry by allowing, for example, cost-free cancellations by guests.

On the other hand, sometimes EU legislation has reduced the visible level of regulation. An example is the Unfair Commercial Practices Directive, as a result of which hotels no longer have to display their prices in reception: given that most guests now book online where pricing varies according to yield management processes and very few 'walk in' in the hope of booking a room. Also under this Directive, the requirement to display a menu outside a restaurant no longer applies: the previous UK Regulations were very specific with requirements to display, for example, prices of so many rose wines.

In terms of competition policy, EU State Aid rules have impacted on the ability of tourist boards to restrict marketing opportunities to inspected properties and, regardless of the merits of the case, seem to result in inordinate delay in matters being concluded.

Also in terms of competition policy, the hotel industry has been impacted by the growth of Online Travel Agents who have used their dominant position to enforce on hotels numerous clauses which contravene fair open market business practices, for example, Rate Parity clauses. Without article 102 of the TFEU, it is not clear how hotels across the EU could obtain a change in the situation.

In short, the verdict is a mixed one: EU involvement in consumer and competition policy has sometimes adversely, and sometimes positively impacted the UK hospitality industry.

I confirm that we have no objection to this response being made publicly available.

Yours faithfully,

British Hospitality Association



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