

## eTourism – Last Developments in Legislation

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## EU Legislations

1. Directive 1997/7/CE - « Distance Selling »
2. Directive 2000/31/CE - « E-Commerce »
3. Directive 2002/58/CE - « E- Communication & Privacy »
4. Directive 1990/314/CE - « Package Travel »
5. Regulation 80/2009/CE - « CRS Code of Conduct »

See also - Directive 1998/34/CE et 1998 /48/CE - Norms and technical services- internet  
- Directive 1995/46/EC of 24 10 95- Data protection & Privacy

## Distance Selling Directive

### 1. Exception for the travel sector in art 3.2

ECJ case : EasyCar v/ UK office of Fair Trading -10 March 2005-  
case 336/03

- Reservation only by internet
- Withdrawal right for consumer not granted
- Included in the exception: rent-a-car services is a service of transport falling within the exception

### 2. Strict liability rules for electronic paiement- art 8

! **E- commerce Directive**

**1° Licence or autorisation required – in principle NO**

**2° Travel sector is regulated – licence required BUT  
no specific licence for sales through internet**

**3° Validity of contracts concluded by electronic means**

**4° Exemption of liability for services providers ( mere conduit or  
caching or hosting) –not liable for information provided by  
tourism sector + cannot be considered as intermediaries.**

## **Code of Conduct for Computerized Reservation Systems**

- ! Prevent abuse of competition and supply neutral information to travellers
- ! Applies to reservation system which contains air transport products and rail transport products alongside air transport
- ! System vendor is considered as data controller in accordance with directive 95/46 /EC
- ! Obligation to process data only for performance of the contract which means only for making reservation or issuing tickets for transport
- ! Information on identifiable individual bookings shall be stored offline within 72 hrs
- ! Marketing, booking, sales data shall have no identification of individuals
- ! Subscribers (like travel agent) shall inform the traveller on information on the system vendor
- ! Right to access by traveller free of charge to data relating to him

## e Tourism- Belgium

- ! 2006 : 35 % of Belgians use internet for travel & leisure reservations
- ! Europe Union:Tourism imdustry generates EUR 163 Billions / year
- ! Out of date legislation regarding licence to operate travel agency and tour operator activities( law of 1965) – new decree in flamish region in 2007
- ! The professional sector uses exclusively electronic communications and internet on its day to day business

## Internet travel providers are faced with four legal issues:

### 1- Information to be communicated

- Easy, direct & permanent access= strict requirement
- Travel law of 1994 requires « written » communication in several cases  
Ex : modification to brochures and issue of travel order

### 2- Conclusion of travel contracts and reservations

- Law of 1994 says contract is only concluded when the traveller receives the written confirmation of the reservation
- Solution: Instrument to load permanently information ( dvd-cd rom- hard disk-usb key) +authorization to load from a website
- **Draft royal decree** to modify travel legislation to authorize such e-contract

## Internet travel providers are faced with four legal issues:

### 3. Price and payment

- Validity of complicated price arrangement made by airlines
- Price for organized tour may not vary at all during 20 days before departure
- Securization of payment by credit card
- Modalities of reimbursement

### 4. Privacy and Data protection

- Communication of travellers' datas to other contractors in an organized tour: normal datas and sensitive datas: art 8 of travel law requires communication of all useful information by traveller
- Communication to or use with third parties for marketing purposes

## Privacy & Data protection

- Law of 8 december 1992 – last amendments and updates on **26 February 2006**
- Applies to any information relating to an identified individual
- No distinction between Belgians or non Belgians
- Processing datas means any operation or set of operation performed on personal data: collection,storage,use, modificatiion,disclosure,etc
- Processed by manpower or even partially by information technology such as computers technology,telecom,internet,
- Are concerned hotels, travel agent, tour operator , leisure parcs ,timeshares, rent a car, carriers, etc.
- Obligations & Liability fall on the controller

## e Tourism - Belgium

The **Privacy Commission** makes sure that your personal data are not processed, used or disclosed in violation of your privacy.

Depending on the specific area in society where your data are processed, the Commission will:

- ! receive all general notification from data controllers;
- ! issue an opinion on the text of certain laws;
- ! make a recommendation about certain data processing operations;
- ! grant authorization to process certain personal data (mainly sensitive information);

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