



L I V E F R O M B R U S S E L S

Issue N°54, 1 August 2011

Main EU developments over the last 3 months of interest to the hotel, restaurant and café sector

HOTREC represents the hotel, restaurant and café industry at European level. The sector counts 1,7 million businesses, with almost 92% of them being micro enterprises employing less than 10 people. The micro and small enterprises (having less than 50 employees) represent more than 99,5% of businesses and make up 62% of value added. The industry provides some 9,5 million jobs in the EU alone. HOTREC brings together 39 National Associations representing the interest of the industry in 23 different European countries.

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HEALTH AND FOOD

□ Food labelling Regulation: end of the legislative process in sight

On 6 July 2011, the European Parliament adopted in plenary session its 2nd reading opinion ([P7_TA\(2011\)0324](#)) on the proposed Regulation on food information to consumers ([COM\(2008\)40 final](#)). The text voted is the result of a compromise reached between representatives of the European Parliament and of the Council during informal trilogue negotiations, which took place after the adoption by the ENVI Committee (Environment, Public Health and Food Safety) of its 2nd reading report in April 2011.

As regards the issue of “non pre-packed food” (i.e. restaurant meals, etc.), given that the position expressed by the ENVI Committee in 2nd reading was identical to the Council common position of February 2011, **the compromise text voted by the EP plenary confirms that:**

- **Allergen information will be mandatory at EU level;**
- The “opt-in approach” has been retained for the other elements (listed in Art. 9 and 10), meaning that **the provision of information other than allergens is not mandatory at EU level, unless Member States decide to require the provision of these elements;**
- **Member States can adopt national rules concerning the “*means through which*” the information has to be made available and “*where appropriate, their form of expression and presentation*”. This means that Member States could decide that allergens information can be given orally or by other means. The door will be therefore open to national solutions.**

The compromise text voted by the EP plenary in 2nd reading will now be formally submitted to the Council for approval during the Autumn 2011. Once adopted by the Council, business operators will be given three years to adjust to the new legal situation before the new Regulation produces its effects and starts being directly applicable.

HOTREC welcomes the “opt-in” solution adopted by the Parliament and the Council in their compromise text with regard to “non-prepacked food”. It is indeed an improvement compared to the original Commission proposal (“opt-out approach”).

However, HOTREC regrets that the final text adopted by the European Parliament finally imposes an EU-wide requirement to provide allergen information for foods served in restaurants. Meals served by restaurants are not standardised products and should not be subject to the same labelling requirements as large food processing companies. Furthermore, even the solution of limiting mandatory information to allergens is de facto unworkable. The list of allergens is very long and includes basic ingredients that are used in most recipes. Moreover, the risk of cross-contamination is, unfortunately, unavoidable in restaurants, where chefs have to prepare at the same time, in the same kitchen, with limited working areas, various dishes containing commonly used ingredients, which may be potential allergens (eggs, milk, fish, nuts, cereals, etc. and their derived products).

The decision on whether to adopt rules on “non-prepacked food”, including with regard to allergens, should be a matter for Member States, because the provision of information in relation to meals prepared and served locally has no impact on the functioning of the internal market.

□ **Alcohol policy: follow-up study on alcohol affordability and alcohol related harm**

Following various discussions with the public health authorities of the Member States, the European Commission recently requested RAND Europe to carry out a follow-up study to their previous [study](#) on the link between affordability of alcohol and harmful consumption.

The first study published in 2009 (see *Live from Brussels n°46*) found that there is positive relationship between affordability, alcohol consumption and related harm, while noting that there was a growing trend towards off-trade (shops) consumption (where alcohol is more affordable) by comparison to on-trade (pubs, restaurants, etc.) consumption. Building on these results, the European Commission tasked RAND Europe (at the request of Member States) to further investigate the issue of on- and off- premises (hospitality/retail) prices discounts and promotions (e.g. “happy hours”, “flat rate parties”) of alcoholic beverages with a view to assess the use of promotions/discounts and its impact on alcohol consumption and alcohol related harm.

The result of this study should be made available by 2012 and be discussed with the European stakeholders in the European Alcohol and Health Forum.

HOTREC, which joined the European Alcohol and Health Forum at the beginning of 2008 and committed itself to raising awareness among its member associations on the activities of the Forum, will follow carefully the result of this study.

CONSUMER AFFAIRS

□ **Consumer rights Directive: The European Parliament supports First-reading compromise with the Council**

On 23 June 2011, the European Parliament adopted in plenary session its 1st reading opinion ([P7_TA\(2011\)0293](#)) on the proposal for a Consumer Rights Directive. The aim of this proposed Directive ([COM\(2008\) 614/3 final](#)) is to review, simplify and improve the coherence of the consumer contract regulatory framework through the incorporation into one set of rules of various existing Directives relevant to the hospitality industry, such as the distance selling Directive (97/7/EC) and the unfair contract terms Directive (93/13/EEC).

With this positive vote, the European Parliament took a decisive step towards the end of the legislative process. Indeed, the final text submitted to the plenary session is the result of a compromise reached between representatives of the European Parliament (led by the Rapporteur, MEP Schwab – EPP, Germany) and of the Council during the informal trilogue negotiations. The positive vote of the plenary session therefore means that MEPs widely supported the 1st reading agreement reached with the Council.

The text of the compromise adopted by the European Parliament provides for the following specificities for the hospitality industry:

- **The current exemption to the right of withdrawal for hotel/restaurant contracts concluded at a distance is maintained;**
- **Reservation by phone or email of a table in a restaurant should not be considered as a distance contract falling under the scope of the Directive;**
- **Restaurant contracts concluded directly on the spot should not fall under the scope of the provisions on information requirements for on-premises contracts;**

However, distance contracts for the provision of hospitality services will now be subject to the rules on the provision of pre-contractual information. These rules contain an exhaustive list of information to be provided to the consumer (name and address of the trader, price inclusive of all taxes, complaint handling policy and out-of-court complaint and redress possibilities if available, etc.). Moreover, there are specific requirements for the provision of this pre-contractual information:

- **For a hotel reservation made by telephone, only some information shall be provided immediately** (e.g. total price, identity of the trader, characteristic of the service) while the other information can be provided at a later stage (see below);
- **All contractual information shall be confirmed on a durable medium at the latest before the performance of the service begins** (durable medium includes e-mails or any medium that allows the consumer to store the information);
- **For contracts with pre-payment concluded through interactive Internet websites, certain information (contact details, characteristics of the service, duration, price) must be shown in a prominent manner to the consumer before he confirms the conclusion of the contract.** In addition, the consumer must be given the possibility to explicitly confirm that the conclusion of the contract implies an obligation to pay.
- Member States will keep the possibility to adopt specific additional requirements for some contracts concluded by telephone implying a pre-payment.

Finally, the compromise text also includes two new sets of general rules:

- **Minimum contractual information requirements for on-premises contracts** (e.g. characteristic of the service, price inclusive of taxes, etc.);
- **An EU-wide ban on default options implying extra-payments**, meaning that pre-selected paying options in contracts cannot be used anymore.

The text adopted by the EP plenary will now be submitted to the Council for its formal adoption during the Autumn 2011. Once the Directive is adopted, EU Member States will have to introduce the new rules at national level.

HOTREC and its member associations welcome the European Parliament plenary vote on the Consumer rights Directive as a positive move for the European hospitality industry. Indeed, by opposition to earlier versions of this draft Directive, most hotel and restaurant bookings should not be too negatively affected by the new requirements of the Directive, as the specific situation of the industry was mainly taken into consideration and some key exemptions should be granted.

COPYRIGHT

- **Green paper on audiovisual rights: Commission proposes new online rights for artists**

On 13 July 2011, the European Commission released a Green Paper “*on the online distribution of audiovisual works in the European Union: opportunities and challenges towards a digital single market*” ([COM 2011\(427/4\)](#)). The aim of this Green Paper, which was announced in the Commission strategy on intellectual property rights, is to reflect on the effect of technological developments on the distribution of, and access to, audiovisual and cinematographic works; and to start a debate on the policy options to develop a framework within which European industry

and European consumers can benefit from the economies of scale offered by the digital single market. It therefore tries to identify the existing obstacles to the development of a digital single market for audiovisual media services.

The Green Paper contains two important sections:

- The first one deals with the digital single market for audiovisual media services as such. In this section, **the Green Paper raises several questions in relation to licensing problems for Video on Demand, online broadcasting, etc. It also reflects on the possibility to create a unitary Copyright title in EU law and a more harmonised EU Copyright code which would compile all existing EU legislation** on the matter to overcome the obstacles to the uptake of the digital single market for audiovisual works protected by copyright.
- The other important section deals with rights holders' remuneration for online exploitation of audiovisual works. In this section, the Green Paper explains that audiovisual authors and performers do not benefit from an EU wide right to receive a "per use" payment for the online exploitation of their works, as their "making available right" is usually automatically transferred to audiovisual producers. **The Green Paper therefore proposes to create such additional remuneration right for audiovisual authors and performers** to reflect the success of their work.

The Green Paper initiates an open consultation on all these issues, which will be open until 18 November 2011.

As an important user of audiovisual works, which are either broadcasted or made available on-demand on TVs in guests' rooms in hotels, the hospitality industry is very interested by this Green Paper consultation. HOTREC and its national hospitality associations will therefore reply to this consultation. However, HOTREC regrets that the Green Paper focuses most exclusively on online distribution of audiovisual works; giving the impression that problems faced by users for traditional licenses for offline uses of audiovisual works are left aside. HOTREC therefore hopes that future Commission actions on the matter, as well as the upcoming legislative proposal on collective management of rights will address this shortcoming and will cover licensing practices for works available both offline and online, as well as for licenses covering both musical and audiovisual works.

TOURISM

- **Tourism policy: the EP TRAN Committee adopts the Carlo Fidanza own-initiative report**

On 21 June 2011, the TRAN Committee of the European Parliament (Transport & Tourism) voted on the [own initiative report](#) by MEP Carlo Fidanza (EPP, Italy) on the Communication on Tourism of 2010. A total of 246 amendments were presented to this report, including some HOTREC amendments presented by MEPs Luis de Grandes, Rosa Estaràs (EPP, Spain); Ramón Tremosa (ALDE, Spain) and by the Rapporteur himself, in particular to points 15 (European Quality label), 16 (proliferation of labels/merging of labels) and 17 (accommodation classification systems/Hotelstars Union). HOTREC amendments were partially adopted by the Committee, although due to the fact that text was the result of a compromise agreement between the two major political parties, there was not much scope for change.

A consolidated version of the Fidanza report will be available at the end of August/beginning of September 2011. The vote by the EP Plenary is scheduled for 12 September 2011.

The collaboration between HOTREC and MEP Fidanza has been very positive and certainly his report provides a very useful input from the European Parliament towards the Commission and Member States for the shaping of the new tourism policy of the EU. But HOTREC still has a few concerns:

- *HOTREC amendment to point 16 of the EP report was partially adopted as the text makes a reference to the fact that Member States and stakeholders should avoid the proliferation of labels by promoting existing instruments and best practices. The same point continues calling on the Commission to assess at a future date whether the “European Quality label” and the “Ecolabel for tourist accommodation” could be gradually merged. However, HOTREC is of the opinion that parameters of quality management of services and ecological performance are different and should be kept separate to avoid confusing consumers.*
- *With regard to point 17, even though the Rapporteur recognises the value of the Hotelstars Union initiative, as a positive experience made by industry associations, he also calls on the Commission to harmonise gradually the accommodation classification systems through the identification of common “minimum” criteria. However, HOTREC argues that industry efforts to bring hotel classification systems closer together at European level, which resulted in Hotelstars Union, are not precisely following the principle of the lowest common denominator.*

HOTREC looks forward to continue exchanging information with MEP Fidanza on the follow-up to his report and in general with all MEPs on the implementation of the Commission Communication on Tourism.

STANDARDS

□ ISO TC 228 : various proposals on standardisation of accommodation put on hold

Following the numerous proposals for new work items on standardisation of accommodation, a remarkable turnaround was experienced at the last ISO TC 228 plenary meeting held in Viterbo, Italy, on 20 May 2011.

All three [work item proposals in relation to accommodation services were withdrawn](#) by their initiators, as it was clear that the proposals were heavily opposed by the participants of the meeting and clearly not backed by the industry. The ISO Secretariat took note of the withdrawals and consequently deleted the ballots concerning these three work item proposals.

In the plenary meeting, the ISO TC 228 Secretariat noted with concern that work progress in many Working Groups was very slow and that participation in the meetings was very low. In some cases (e.g. WG 2 on Spa services) deadlines were proposed for the conclusion of the next steps, otherwise the projects discussed could be withdrawn.

The only work item in relation to accommodation which is under discussion is the earlier approved project to develop standards on ‘Environmentally friendly accommodation’ in the Working Group (WG) 10 of ISO TC 228. The original proposal, coming from the National standardisation body of Turkey, was discussed and other alternative routes were proposed. These

alternatives shall now be further elaborated and put forward to discussion in a next WG meeting likely to be held in October in Turkey.

The next ISO TC 228 plenary meeting shall take place on 25 May 2012 in Seoul, South Korea.

HOTREC participated in the recent ISO TC 228 plenary meeting and expressed its concerns about the recent proposals, because the vast majority of the European hospitality industry is not supporting the development of ISO standards covering accommodation and catering services. HOTREC is only giving its endorsement to industry driven, or at least industry supported standardisation initiatives. Heterogeneity and diversity is a main competitive feature for the hospitality industry and constitute precisely a major attraction for customers. The expectations of the guests vary according to their destinations, their ages, their budgets as well as the purpose of their trips. Therefore, HOTREC believes that most of them do not expect nor wish to find standardised conditions everywhere they travel.

□ EU Commission proposal for new Regulation on standardisation

On 1 June 2011, the European Commission issued a draft Regulation ([COM\(2011\) 315 final](#)) and a Communication ([COM\(2011\) 311 final](#)) on European Standardisation. The main aim of the proposed Regulation is to include standardisation of services in the scope and also to strengthen the involvement of SMEs in the standardisation process. According to the legislative proposal, the European Commission may request European standardisation bodies to draft a European standard, which shall be “market-driven” and “based on consensus”. Based on these principles, the European Commission shall adopt an annual work programme, including the deliverables that it intends to request from the European standardisation bodies.

The draft Regulation also requires that appropriate representation of SMEs, through their European stakeholder organisations, shall be ensured from the proposal and acceptance of new work items until the dissemination of adopted European standards.

This Commission Regulation shall be adopted through the ordinary legislative procedure by the Council and the European Parliament. Within the EP, the IMCO Committee (Internal Market & Consumer Affairs) will be dealing with this proposal. The MEP Lara Comi (EPP, Italy) will be the Rapporteur in charge.

The Communication, which was issued in parallel to the draft Regulation, is defining the key societal challenges which standards shall address, namely consumer protection, in particular through safety parameters, improving accessibility and climate change. It further mentions that standards shall be provided for SMEs at special rates and more favourable conditions. With regard to standards on services, the Communication is further emphasising that standard have a great potential for improving the quality of service. It is also stressing that European standards on services must be based on consensus and be market-driven.

HOTREC is following with caution this recent development with regard to standardisation at EU level. As the vast majority of the European hospitality industry is not supporting top-down standardisation initiatives, HOTREC really hopes that no proposals for standardisation work will be issued without the consultation and the endorsement of the industry. HOTREC welcomes more transparency and better accessibility with regard to standardisation work, but also believes that standardisation initiatives cannot be successful, if they do not enjoy the support of the given industry.

SOCIAL AFFAIRS

□ Seasonal workers: proposal for a Directive under discussion in the EP

On 13 July 2010, the European Commission presented a proposal for a Directive on the conditions of entry and residence of third country nationals for the purposes of seasonal employment ([COM \(2010\) 379 final](#)). The proposal is currently being discussed in the LIBE Committee (Civil Liberties, Justice & Home Affairs) under the 1st-reading of the legislative procedure.

The proposal establishes the conditions for admission of non-EU seasonal workers, such as a valid work contract or a binding job offer, a valid travel document, evidence of having or having applied for sickness insurance, sufficient resources during his/her stay, etc. (Article 5). However, the text does not create a right to admission of third country nationals, as it remains the right of the Member States to determine the number of seasonal workers to be admitted to their country.

The following provisions are also contained in the Commission proposal:

- **Seasonal workers will be issued a visa or residence permit allowing them to work for a maximum period of 6 months.** Such strict limitation is aimed at ensuring that workers are employed for work that is genuinely seasonal and not for regular work;
- **Employers are required to provide evidence that the seasonal worker will have appropriate accommodation during his/her stay.**

On 8 June 2011, MEP Claude Moraes (S&D, UK), Rapporteur for this dossier released his [draft report](#) on the Commission text. The Rapporteur welcomes the proposal in general and favours the maximum period of stay of 6 months in any period of 12 months for the seasonal worker. In particular, Mr. Moraes points out that:

- The Directive should apply also to third-country nationals who are legally staying in the territory of a Member State and who apply for a seasonal work permit in that Member State and not only to third-country nationals who reside outside the territory of the Member States;
- The employer shall comply with a list of minimum requirements for the accommodation: adequate space, protection from the elements and other threats to health, etc.

Amendments have already been put forward by the MEPS in the LIBE Committee but are still not available. The report will be voted in the LIBE Committee during Autumn 2011.

HOTREC generally welcomes the proposal for a Directive as the text establishes for the first time clear rules for the admission of non-skilled third country nationals and can help to avoid their exploitation. HOTREC is of the opinion that seasonal workers should be welcomed in the EU to deal with shortages in certain sectors of activity like the tourism industry.

TAXATION

- **VAT: MEP Rapporteur David Casa issues his report on the Green Paper consultation**

On 2 December 2010, the European Commission launched a public consultation on the future of VAT in the EU, which aims at preparing a comprehensive reform of the European VAT regime.

The consultation was closed on 31 May 2011 and now the European Commission is preparing a Communication, which shall be released end of 2011. This document shall outline the main priority areas in which further action at EU level would be appropriate.

The European Parliament decided to issue an opinion on the matter and the MEP David Casa (EPP, Malta), member of the ECON Committee (Economic & Monetary Affairs), was in charge.

Mr. Casa issued his draft report on 8 June. He strengthened in particular the principle of neutrality, meaning also the full deductibility of VAT “*on goods and services that are used for taxed economic activities*”. The issue of reduced VAT rates was not referred at all in Mr. Casa’s draft report.

The EP opinion shall be voted at Committee level in September and by the plenary in October 2011.

Also in relation to the reform of the VAT system, in the Commission’s recently released proposal for the [new Multiannual Financial Framework](#) of the EU for 2014-2020, the reform of the own resources of the EU is proposed. In particular, the Commission is proposing to abandon the current VAT based own resources system, and base VAT related revenue instead on the benefits of the envisaged reform of the EU VAT system. This reform shall broaden the tax base, reduce the scope for fraud and reduce compliance costs thus generating new revenue streams for Member States. A part of these gains would then be attributed to the EU level.

HOTREC submitted its response to the consultation, emphasising the importance to keep for all Member States the possibility to apply a reduced VAT rate for accommodation and restaurant services. Recent examples in different countries have proven that reduced VAT rates in the sector are very much contributing to increase employment.

Besides the issue of reduced VAT rates, VAT deductibility is another issue of importance. VAT is a tax to be paid by the final consumers. Therefore HOTREC is strongly emphasising that full deductibility of VAT on all goods and services, which serve as inputs for taxed economic activities shall be assured. Any limitation to the deductibility of VAT on accommodation or restaurant expenses is not only harming the responsible business making use of such services, but also the hospitality businesses, as they may expect less turnover from business clients due to limited deductibility.

HOTREC CLASSIFICATION

□ Hotelstars Union expands to Luxembourg

On the occasion of the last HOTREC General Assembly of 11-12 May 2011 in Zurich, Luxembourg not only became a new member of HOTREC, but also a new country to apply the common classification system of the [Hotelstars Union](#).

So far, the Hotelstars Union has counted 10 members (the 7 founding members, as well as Estonia, Latvia, and Lithuania). Luxembourg became the 11th member. Nowadays, the Luxembourgish Ministry of Tourism prepares together with the relevant partners the implementation of the reform of the hotel industry statutes law which will be the foundation for the implementation of the Hotelstars Union classification system in this country.

The common hotel classification is based on a total of 270 single criteria; a combination of minimum criteria per category and facultative criteria are to be met to collect the required points. These criteria have been developed on the basis of representative guest surveys and therefore match the expectations and requirements of the guests. Accordingly, the catalogue of criteria puts emphasis on the areas of quality management, wellness and sleeping comfort. The hotelstars of the partnership integrates also a linking function between the real hotel product and its virtual image on the internet. A step in this direction is already taken with the criteria regarding the informative value of hotel websites and an invitation to provide hotel reviews on the web.

Hotelstars Union is definitely a “success story” of the hospitality industry. In record time, the now 11 members of the Hotelstars Union already represent a market of 18,000 classified hotels and more than 150 million inhabitants. The Presidents and Executives of the members of the Hotelstars Union invite even more HOTREC member countries to apply the common classification scheme and join the Hotelstars Union.

STATISTICS

□ Recent statistical publications

Eurostat has recently released the following publications relating to tourism:

- [Comparative price levels for 2010](#), Statistics in Focus 28/2011;
- [From farm to fork - a statistical journey along the EU's food chain](#), Statistics in Focus 27/2011.

HOTREC GENERAL ACTIVITIES

□ Last and next General Assemblies

On the occasion of its 62nd General Assembly held in Zurich on 12-13 May 2011, HOTREC welcomed four new member associations representing the interests of the hospitality industry in **Cyprus, Luxembourg and Turkey**. The next General Assembly of HOTREC will take place in Copenhagen on 27-29 October 2011 in conjunction with a Seminar on “the European gastronomic diversity and the regulatory challenges ahead”.

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