

NET

NETWORK FOR THE EUROPEAN PRIVATE SECTOR IN TOURISM



Digital policy and access to data

Support recovery by empowering businesses, destinations and tourists

Tourism has consistently grown in Europe throughout the past two decades and Europe will hopefully continue to be the world's n°1 travel destination despite the COVID-19 crisis. The recent European Commission digital strategy¹ has nevertheless identified what can be improved, and the tourism sector shares many of these considerations.

This is why **NET – a network of representative trade associations from the private sector in European tourism – welcomes the European Commission's digital strategy**. We want the digital tourism landscape to be fairer, more innovative, better managed and more sustainable.

We believe that the key to this lies in a regulatory framework that empowers destinations with access to relevant data, provides a fair and transparent competitive environment for all travel and tourism enterprises and benefits consumers. We urge the EU Institutions to reflect the following requests in a regulatory framework for the digital landscape in order to support the travel and tourism sector and help it recover following the tremendous damage caused by the COVID-19 crisis:

- ✓ **Digital has transformed travel and tourism** and will continue **creating opportunities** for businesses and consumers;
- ✓ Ensure **subsidiarity** in order to support the elaboration of clear policy measures addressing the **public interest at destination level**;
- ✓ Clarify the **regime for non-personal data**, and **balance the rights and obligations of data generators and data users**;
- ✓ Address the **lack of digital skills** of local authorities and businesses and the **lack of connectivity** in remote areas;
- ✓ **Clearly define the responsibility of platforms** while ensuring adequate compliance and enforcement;
- ✓ Address **the role of dominant platforms** and take appropriate action to ensure **fair competition**;
- ✓ Ensure **enforcement of the P2B regulation and the Directive on modernisation of consumer law** in the tourism and travel sector.

¹ 'A Europe fit for a digital age' and the 'European Strategy for Data'.

Digital has transformed travel and tourism and will continue creating opportunities for businesses and consumers

The tourism sector is embedded in the real world, with infrastructure, establishments, vehicles, parks and attractions. Travel and tourism will always be about people, places, experiences and discovery. But the travel and tourism sector is no stranger to the digital revolution. Digital technologies and data have transformed the way consumers choose their holiday destinations, book their accommodation, select their means of travelling and find out about local attractions. It has expanded choice and possibilities for consumers, invigorated competition, fuelled innovation and put new destinations on the map.

Data has shown its potential to give all stakeholders the means to make smarter decisions, offer better services, elaborate more coherent rules and exchange information faster. Like in many other sectors, platform business models are gradually converging and expanding their offer beyond their initial field of specialization. Their operations need to be understood, particularly at a local level, so that appropriate destination management policies evolve and cater to the needs of communities, businesses and visitors.

Digital technologies allow European business to market to consumers within a familiar social media environment, for example WeChat for Chinese visitors, and enable them to pay using digital devices rather than cash or cards. Applications can also go a long way towards facilitating travel related procedures for consumers, such as the delivery of visas.

Smart technologies are also at the forefront of capacity optimisation tools, responding to individuals' needs and enabling product diversification based on real-time recommendations.

Ensure subsidiarity in order to support the elaboration of clear policy measures addressing the public interest at destination level

Destinations are best placed to determine which measures need to be taken at local level to support the public interest. They need a clear framework and adequate regulatory and enforcement competence in order to set out measures at local level, without creating unnecessary regulatory fragmentation across the EU and avoiding discrepancies with the country-of-origin principle².

While avoiding a 'one-size-fits-all' approach, the Digital Services Act should outline a clear, consistent and predictable governance framework establishing how and what can be done by local and national authorities to address the negative side-effects of platform-related and peer-to-peer economy activities at destination level, such as unrecovered due taxes, passenger safety and security, food safety, and private rental accommodation shortages.

Clarify the regime for non-personal data and balance the rights and obligations of data generators and data users

The challenges relating to the collection, storage, sharing, use, re-use, access and security of data are visible in the relationship between all partners in the travel and tourism chain - customers, service providers, intermediaries, platforms and destinations. Steps must be taken to find appropriate solutions that simultaneously ensure equal opportunities for all players in the travel and tourism chain on the digital market and guarantee the confidentiality and privacy of commercially sensitive information.

Destinations need an accurate picture of commercial activity including actual use – rather than just capacity – within their boundaries in order to ensure and improve public services, make better evidence-based rules, improve their enforcement and act decisively in emergency situations. Platforms providing consumer access to providers of paid-for accommodation, food, drink or transport services should make aggregated consumer and passenger data available to appropriate local authorities to this end.

In turn, destinations should seek to maximise access to non-personal local tourism data for tourism businesses in order to ensure the best possible quality of services for consumers. This will enable strategy to evolve that is based on actual activity. For example, transport service providers should be encouraged to share live inventory and other data necessary for journey planning services to offer end-to-end options to consumers.

² We recognise that the country-of-origin principle is fundamental for online services. There may however be a case to further clarify how the local and national level can address issues of public interest with appropriate rules without clashing with this EU regulatory principle.

In order to minimize the risk of widening the commercial gap arising from the value of user data (obtained by large organisations in particular), digital platforms working as intermediaries for the provision of a given service should not retain directly related market-relevant data and personal data required for the delivery of the service. The extent to which this data can actually be re-used and aggregated with other data in order to produce new intelligence is also an important issue requiring careful consideration.

The EU Data strategy outlines plans to set up 'Common European data spaces' in several key sectors. While taking note of the proposal to set up a common data space on mobility, we believe that there is also scope to consider tourism as a key sector for a Common European Data Space. It would present an opportunity to set up an appropriate regulatory regime for big data analytics and emerging technologies in this field.

This would support the resilience of destination authorities by identifying better real-time data on origin markets as well as in destinations to rapidly adapt to changing visitor sentiment and behaviour. It should also clarify personal and non-personal data governance in the travel and tourism sector and tackle the collection, storage, privacy, sharing, use, access and security of data, in order to build an operational environment that guarantees a fair competitive environment for all players, in particular, by balancing the rights and duties of data generators and data users.

Address the lack of digital skills of local authorities and businesses and the lack of connectivity in remote areas

Data is valuable if it is actionable. While local authorities are fully aware of the importance of data and the possibilities it can bring to provide better and more efficient public services and make better evidence-based decisions, many simply lack the skills and means to request the most pertinent data, analyse it, and make best use of insights arising. At present, this can lead to misguided requests for data from platforms and tourism enterprises and difficulties in using the data made available.

The Common European data spaces on public administration and on skills should pay particular attention to enhancing the data skills of local public administrations. Further efforts are also required to facilitate public and private sector investment in broadband connectivity in rural or more remote areas where infrastructure investment is often insufficient. Readily available free Wi-Fi in destinations and attractions will transform their ability to provide real-time data and value-adding services to visitors from markets whose data plans may not allow low-cost data access.

Clearly define the responsibility of platforms while ensuring adequate compliance and enforcement

The development of tourism-specific online platforms offering intermediary services has expanded choice for consumers and largely contributed to better destination marketing, offering local businesses new sources of clients and revenue. At the same time, certain practices by platforms have been deemed unfair by tourism enterprises, misleading for consumers and prone to adverse consequences for destination authorities.

Commercially viable online platforms ecosystems should be based on some fundamental principles such as: voluntary opt in for businesses, platform responsibility as regards the compliance of service providers, public control to guarantee non-discriminatory access, transparent ranking and terms & conditions, and protection of non-personal data.

The Digital Services Act should strive to establish a level playing field between equivalent offline and online activities in the single market. Online platforms should be held accountable for any unlawful actions or activities made available via their websites and any non-compliant offer should be removed. Liability should be assessed regardless of channel: regulation should focus on the actual activity or service that is offered to the public, not only on the means by which such activities or services are offered.

Address the role of dominant platforms and take appropriate action to ensure fair competition

Our sector is characterised by a high concentration of microenterprises and SMEs that do not have the bargaining power nor resources to ensure fair treatment from the dominant online platforms. The latter's 'gatekeeper power' is major prerogative which profoundly shapes consumer choices and strongly impacts businesses, for example when ranking different services on their websites.

We therefore welcome the points in the European Commission Communication on 'Shaping Europe's Digital Future' on an ongoing evaluation of the fitness of EU competition rules in the digital age and the ambition to explore ex ante rules to ensure that markets characterised by large platforms with significant network effects acting as gate-keepers, remain fair and contestable for innovators, businesses, and new market entrants.

A clear definition of what represents a dominant platform in the digital environment is essential. Regulation should also acknowledge the borderless nature of the online marketplace and not cause or increase competitive advantage arising from non-EU establishment. The effects of search market dominance, brand-bidding and domain grabbing should be constantly monitored and abuses need to be addressed.

Ensure enforcement of the P2B regulation and the Directive on modernisation of consumer law in the tourism and travel sector

Important advances were made during the previous EU mandate to improve the relationship between businesses and platforms and ensure that consumers are not misled and in better control of their personal data.

These new rules need to be scrupulously enforced to ensure that:

- Search results are transparent, and paid-for results are clearly and neutrally marked as such;
- Claims regarding prices and availability of services are precise;
- Comparison services compare like-for-like;
- Full prices – including any taxes and surcharges – are clearly visible to consumers;
- No hidden charges linked to exchange rates or credit card usage;
- User reviews are authentic and accountable;
- Personal data is only shared to third-parties with user consent and not used to propose discriminatory price offers.

In addition, enforcement oversight should take the convergence of platform business models into account: for example, platforms offering several services (travel, accommodation, transfers) should be covered by the Package Travel Directive.

What is NET?

NET is a network of representative trade associations from the private sector in European tourism. NET's purpose is to develop common goals for industry and work with policy-makers and other partners to achieve them. Tourism is central to Europe's economic prospects. It contributes more than 10% of EU GDP and provides about 12 million jobs, largely in small and medium sized enterprises. Between them, they make up the third largest socio-economic activity in the EU.

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NETWORK OF **E**UROPEAN PRIVATE SECTOR IN **T**OURISM

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