

Short-term rental sector in Europe: key challenges and the way forward

1. Short-term rental accommodation sector

Short-term rental (STR) has seen a strong growth in the last decade, now representing the largest accommodation sector in Europe, valued at 35 bn€ in 2016¹. Short-term rentals have been available for decades, and have become more popular as travellers increasingly seek alternative accommodation options.

With travellers increasingly opting for short term rental accommodation, online consumer-facing travel platforms have diversified their offer accordingly. These platforms act as intermediators between the property owners and consumers – they provide property owners of all sizes wide visibility in the marketplace with lower transaction and marketing costs – online travel agents invest 35-40% of their revenue in marketing² -, and access to a global customer base whilst maintaining full control of their own pricing. For consumers they provide an easy to use tool for searching and comparing a large variety of accommodation options in order to book accommodations short-term rental platforms list millions of homes in Europe providing accommodations options for travellers seeking greater flexibility and a different type of stay. Within the short-term rental market there are alternative housing options - of primary residence for short periods of time, to secondary or holiday residence rental, home stays multi-property owners, amongst others. The property owners vary between owners that provide short-term rentals on a very occasional basis to fully professional service providers. The latter can go from SMEs to large companies, including formal hotel services. Thus, short-term rental platforms are not only creating opportunities for travellers and communities, but also enabling a variety of business models to thrive.

2. Key challenges that STR sector faces today

Challenges linked to the strong growth of the STR segment, such as pressure on housing availability and disruptions to the urban environment, have arisen in recent years. These challenges have often led to tensions between STR online platforms and public authorities.

While we recognise the right and ability of public authorities to manage the impact of the STR market, the current lack of legal clarity fuels an often antagonistic debate around the challenges, pitting public authorities against online STR platforms.

The lack of legal clarity also means that STR online platforms are subject to fragmented rules and requirements across EU Member States, and even within Member States.

It means that online platforms are often asked to police/regulate the STR market instead of public authorities addressing the source of the problems.

It also sometimes fosters a culture of non-compliance, penalising online companies who take a compliant approach.

¹ PhocusWright's report 'Private Accommodation in Europe: 2010-2020', 2017

² OTAs invest 35-40% of their revenue in marketing – Phocuswright White Paper Online Travel Agencies: More than a Distribution Channel, 2014

3. Lack of legal clarity

The lack of harmonized implementation of EU law, in particular of the Services Directive and the e-Commerce Directive, has resulted in heightened legal uncertainty for booking accommodation platforms. At present, national and local authorities in several Member States are applying different policies and rules onto STR services.

We acknowledge Member States' right to legislate within the limits provided by EU law, however the current situation often leads to disputes in Courts or complaints to the European Commission on infringements procedures.

4. The way forward

eu travel tech is supportive of pushing forward a national mandatory registration system, whereby all STR providers are obliged to register their activity and ensure compliance with national requirements that should also be linked to public policy objectives e.g VAT number.

We would not support the inclusion of obligations within the registration scheme, where the intention is to protect one type of economic activity i.e measures that put STRs on a par with hotels, and which in our view would lead to overregulation of the STR segment.

In line with the e-Commerce Directive's principle there is a corresponding obligation on online platforms to deactivate STR properties who do not provide a registration number.

5. Data Sharing

STR platforms have agreed to share data on occupancy rates and guest numbers (in an aggregated format), allowing for more complete statistics on tourist accommodation around Europe, and for public authorities to better understand the development of the short-term rental market and support evidence-based policies.

Booking accommodation platforms are willing to collaborate as demonstrated by their recent agreement to provide data on short-term rental accommodation occupancy through EUROSTAT³. Public authorities often request data from online platforms. Sometimes the data requests are within the limits of EU law, but sometimes they are not. There is therefore still a strong case to clarify what data can and should be provided by online platforms to authorities.

6. Tax obligations on STRs - the role of online platforms?

Tax authorities are increasingly requesting data from online platforms for taxation purposes and are even seeking to make online platforms liable for paying the tax of its users.

Users of STR platforms are responsible for paying taxes and we do not believe that the responsibility should be transferred to others and most notably placed on platforms. It should also be noted that not all platforms are directly involved in the financial transaction between users and accommodation owners (since some platforms do not take possession of the funds and just facilitate the completion of the transaction between two parties), making it even more challenging for platforms to collect taxes.

³ <https://eutravelttech.eu/eu-travel-tech-and-ehha-welcome-a-landmark-agreement-between-short-term-rental-platforms-and-eurostat/>

We do not want to facilitate tax avoidance or evasion. To this end platforms can and should help users to meet their tax obligations. This can be achieved through various ways, e.g by sharing tax authorities content through links where users can read and learn about their obligation.

Eu travel tech and its members welcome the recent proposal from the European Commission for a Directive on administrative cooperation in the field of taxation (Directive 2011/16/EU). We fully support the objective of formalising the exchange of information between online platforms and tax authorities, enhancing the cooperation with competent authorities allowing them to apply taxes correctly to their taxpayers and combat tax fraud and tax evasion, whilst keeping a minimum burden for online platforms.

Roles and obligations of different stakeholders involved

STR online platforms	Property owners	National or local authorities
<ul style="list-style-type: none">– Compliance with the e-Commerce Directive (crucial for the supply of cross-border services, the liability regime and notice and actions procedures) and consumer protection rules.	<ul style="list-style-type: none">– Compliance with STR laws where applicable.– Declaration of individual income and/or tax obligations to tax authorities.	<ul style="list-style-type: none">– Enforcement of local STR and tax rules when there are any.– Compliance with the EU Services Directive. For instance, any restrictions imposed at local level need to be justified and proportionate and not go beyond what is necessary to attain their objective.– Compliance with the e-Commerce Directive. In particular, respect the notice and action procedures, so that platforms can take down any property where they have received knowledge of illegality from the enforcement authorities without damaging their liability exemptions.

The judgment of the Court of Justice in Case C-390/18 involving Airbnb (Ireland)⁴ confirmed the classification of vacation rental booking platforms as information society services, thereby requiring the notification to the European Commission of any Member States' measures restricting the freedom to provide services.

⁴ <https://eutraveltch.eu/eu-travel-tech-welcomes-the-ruling-of-the-ecj-on-whether-a-service-providing-online-accommodation-to-rent-constitutes-an-information-society-service/>

Roles and obligations of different stakeholders involved

Cooperation with national authorities

- Booking accommodation platforms are committed to a number of actions to support their sustainable growth based on a balanced development of STR services for the benefit of all stakeholders. Some examples include platforms initiatives on data sharing, or the display of mandatory national registration schemes.

Development of information campaigns

- To facilitate compliance, in particular to inform hosts about national, regional or local rules where those apply, also in respect of tax declaration.

Provision of practical tools and information

- To property owners so that they can identify themselves as traders or non-traders.

What policy issues need to be addressed going forward?

- **Balanced rules with clear responsibilities for all:** STR online platforms are often imposed heavy restrictions to help enforcing property owners' compliance. These platforms fulfill their obligations and inform property owners' of the national and local rules applicable when they list a property. They should not be held accountable for the property owners failure or inability to fulfill their duties. STR online platforms will continue to cooperate with enforcement authorities but should not be asked anything beyond the limits of the applicable legislation.
- **Update of the e-Commerce directive:** The upcoming review will be crucial to clarify the rules on liability and a stronger duty of care framework. In addition, the review is an opportunity to bring forward a much needed harmonised legal framework on notice and take down procedures.
- **Legal clarity on definition trader and non-trader:** Online platforms are increasingly being asked to improve transparency to consumers by facilitating easy access to information on the differentiation between traders and non-traders via frontend display on their websites. For that, we need clearer definitions of trader/non-trader to which EU consumer laws do or do not apply.
- **A framework for the Collaborative Economy better fit for purpose:** The European Commission views the STR services as part of the Collaborative Economy, therefore any upcoming policy initiatives on this area should seek concrete solutions to the specific issues of the STR sector highlighted in this paper.

About eu travel tech

eu travel tech represents the interests of travel technology companies. eu travel tech uses its position at the centre of the travel and tourism sector to promote a consumer-driven, innovative and competitive industry that is transparent and sustainable.

Our membership spans Global Distribution Systems (GDSs), Online Travel Agencies (OTA), Travel Management Companies in business travel (TMCs) and metasearch sites.

eu travel tech's members include Amadeus, Booking.com, eDreams ODIGEO, Expedia Group, Skyscanner and Travelport. Associate members include American Express GBT. Strategic Partners include Lastminute.com, etravels, Trainline, Travix, Travelgenio, OAG.