

PTD Revision: Ensuring the Viability of a Well-Protected Travel Product

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eu travel tech

The European association of travel platforms

eu travel tech was established in 2009 as a dedicated organization to represent and promote the interests of travel technology companies in the EU.

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Three important points:

1. **Travel packages are the best protected travel product.**
2. Consumers generally trust package holidays.
3. There has been a decline in packages sold and this could be exacerbated due to price increases.

Consumers are much better protected when purchasing travel packages than when buying standalone travel services (hotel, flight etc.)

To make one example: **Insolvency protection**

Included in the PTD?

Yes, the organiser needs to provide security for refund of travellers' payments in case of bankruptcy. The revised text also clarifies rules around the level of protection in case of insolvency.

Included in relevant laws for standalone travel services?

No, especially in the airline sector, where insolvencies are not a rare occurrence, no mandatory insolvency protection scheme exists.

Self-cancellation rights in case of unavoidable and exceptional circumstances are another example. But more on this later..

Three important points:

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According to a Market Monitoring Survey on packaged holidays and tours, **in 2020, a majority of EU27 consumers (81%) trusted the packaged holiday and tour services providers.**

This figure varies to some extent by Member State, from a high of 90% (in Croatia and Portugal) to a low of 60% (in Poland). **A large majority (91%) report positive experiences of making purchases in the market**, with few notable differences between countries or sociodemographic subgroups.

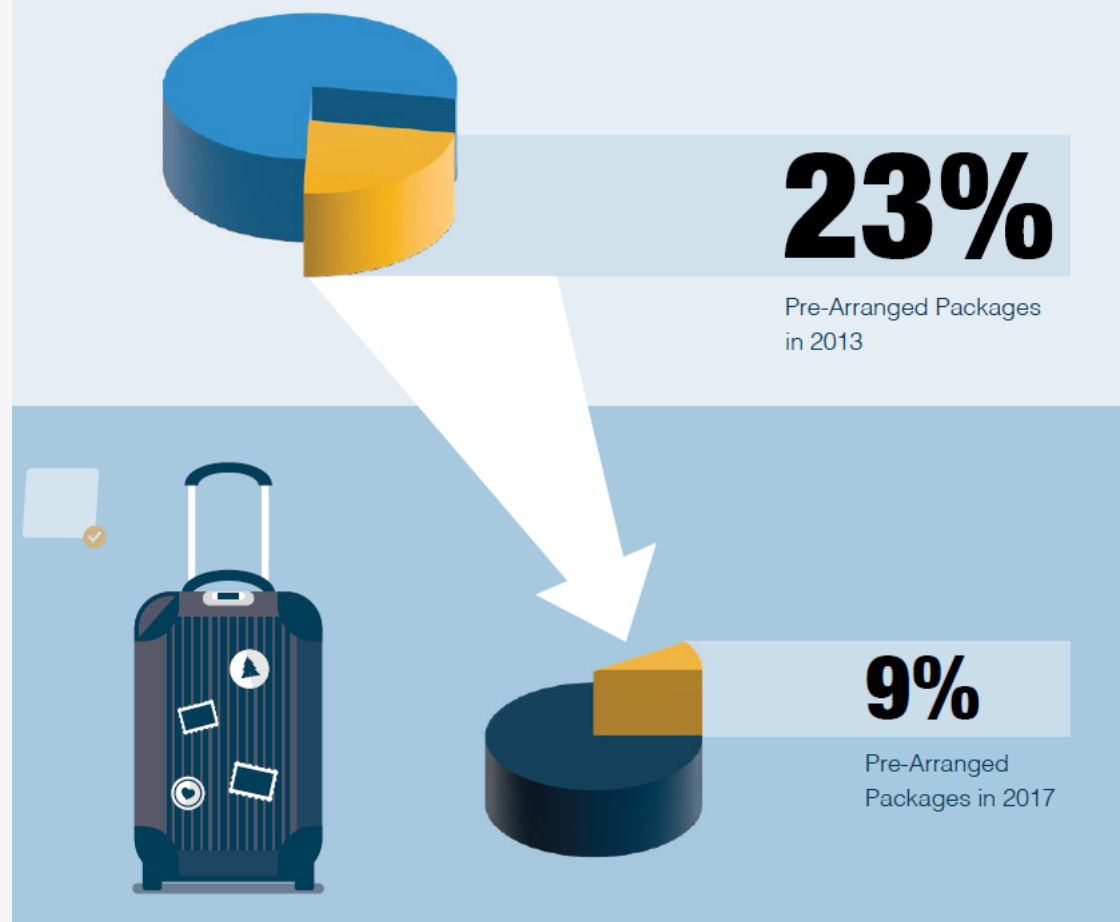
Source: European Commission 2021 [Report](#) on the application of the PTD.

Three important points:

1. Travel packages are the best protected travel product.
2. Consumers generally trust package holidays.
3. **There has been a decline in packages sold and this could be exacerbated due to further price increases.**

MARKET SHARE OF PRE-ARRANGED PACKAGE TRAVEL

% of travel products sold in the EU¹



PTD definitions (packages and linked travel arrangements):

Despite the objective to ensure greater clarity for organisers and consumers, a great deal of complexity remains.

‘(2) ‘package’ means a combination of at least two different types of travel services, as defined in point 1, for the purpose of the same trip or holiday, if:

- (a) those services are combined by one trader, including at the request of or in accordance with the selection of the traveller, before a single contract on all services is concluded; or
- (b) irrespective of whether separate contracts are concluded with individual travel service providers, and:
 - (i) those services are purchased from a single point of sale and
 - have been selected before the traveller agrees to pay, or
 - other types of travel services are booked within 3 hours after the traveller agreed to pay for the first travel service, or
 - other types of travel services are booked within 24 hours after the traveller agreed to pay for the first travel service and if, before the traveller agreed to pay for the first travel service, the trader invited the traveller to subsequently book one or more additional types of travel services, or
 - (ii) are offered, sold or paid at an inclusive or total price, regardless of any separate billing, or
 - (iii) are advertised or sold under the term ‘package’ or under a similar term, or
 - (iv) are combined after the conclusion of a contract by which a trader entitles the traveller to choose among a selection of different types of travel services, or
 - (v) are purchased from separate traders through linked online booking processes where the traveller’s name, payment details, e-mail address or the traveller’s other personal data are transmitted from the trader with whom the first contract is concluded to another trader or other traders.

Limitation of pre-payments to 25% of the package price:

The new rules impose this limitation on organisers and do not address the real source of financial risk: flights cancellations.

The challenge:

The COVID-19 pandemic has exposed the difficulties in recovering consumer pre-payments in times of crises. The issue has been particularly severe in relation to the reimbursement of cancelled flights.

Over the last two years, despite requirements clearly set in EU law, **airlines put hundreds of thousands of reimbursements on hold**, an issue only addressed after intense pressure from the European Commission.

Shortcomings of the EU proposal:

Despite the financial risk clearly residing in the airline sector, the European Commission has imposed this limitation of pre-payments on the **organisers**, which **are required by the travel services providers, especially the airlines, to pre-pay** for the underlying travel services that are part of the package.

Limitation of pre-payments to 25% of the package price:

Other options should be considered to protect consumers against the real source of financial risk.

Escrow Solution

Consumer pre-payments should be protected focusing on the real source of risk in the supply chain, namely flights. **The flight component of the package is not only the most substantial cost for consumers but also the segment most susceptible to repayment delays**, as evident during the COVID-19 pandemic when airlines suspended automatic refunds and prolonged repayment periods.

As negotiators start working on the PTD proposal, they should **look into solutions to ringfence payments related to the flight component of the package in escrow** to protect customer funds.

This solution would avoid placing unnecessary burden on organisers, on which disproportionate obligations vis-à-vis the ones imposed on the airlines should have never been imposed in the first place.

Self-Cancellation Rights in Case of Unavoidable and Exceptional Circumstances:

The provisions currently
in force are not fit for
purpose.

The challenge:

Under the PTD, passengers can cancel their package free of charge in case of “unavoidable and extraordinary circumstances.”

What happens when the package includes a flight, and such flight is operated despite such circumstances at the place of departure or destination?

As such right is not mirrored in Regulation 261/2004 on Air Passenger Rights, which only imposes an obligation on airlines to reimburse the passenger only in the event of a flight cancellation, **organisers are forced to refund the consumers out of their own pockets essentially providing an informal credit line to the airline industry.**

Self-Cancellation Rights in Case of Unavoidable and Exceptional Circumstances:

Urgent alignment
needed between
obligations on organisers
and travel services
providers.

Benefits & Shortcomings of the EU proposal:

The introduction of the B2B refund right is **a step in the right direction** (Article 22).

This applies when service providers cancel or do not provide a service which is part of the package. In such cases, they have an obligation to refund to the organiser the payments received for the relevant service within 7 days.

However, this does not cover cases when the service is provided, **leaving open the liability gap between package organisers and travel service providers!**

Negotiators should ensure that the B2B refund right is extended to cancellations for unavoidable and exceptional circumstances when the service is provided.

Thank you!

For any questions: agallo@eutraveltech.eu

eu travel tech