



Foto: Volker Emersleben

Effects of the revision of the PTD on the distribution of supplementary offers in rail sales

New package travel law came into force in 2018

EU Package Travel Directive 2015/2302 (PTD) has replaced PTD 90/314/EEC from 1990 and came into force in 2018.

Background and goal of the PTD 2015/2302

Empowering travelers in the digital age

- Package travel law protects travelers through the tour operator's **overall liability** for **all travel components** and special **warranty rights**.
- Booking various types of travel services such as flights, hotels or rental cars as simply brokered individual services on online portals or as “click-through” bookings resulted in the **package travel protection** being **missed or circumvented**.
- The customer is **not aware** of the **different level of protection** when booking individual services compared to booking a package holiday.
- Consequence: Brussels saw **a need for action!**

Relevant innovation in the PTD 2015/2302 for rail sails

- Demarcation Package ./ . arranging travel services: **booking design is crucial**, not a mere „**agent's declaration**“;

When **paying** for various types of **travel services at the same time**, it is generally a **package**.

Separate payment steps for each travel service **can prevent package**

- **Equating of Package** with „**Linked online booking processes**“
- New category „**linked travel arrangement**“

All relevant innovations in the PTD 2015/2302 regarding rail sales are tightened in the direction of “package”.

- **3/24h-rule** and thus **elimination of the effect of separate payment steps,**
- **new definition of "linked online booking processes"**
- **and the new definition of "linked travel arrangements"**

lead to the role of tour operator **or** at least **increase the risk** of ending up in the **role of tour operator**

‘Package’ with the new 3/24 h-rule

The current and new wording of Art Article 3 No 2 (i):

Current Article 3 No 2 (i):

- (2) ‘package’ means a combination of at least two different types of travel services 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, those services are:
 - (i) purchased from a single point of sale and those services have been selected **before the traveller agrees to pay**, ...

New Article 3 No 2 (i):

- (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 ...

‘Linked online booking processes’ – stricter requirements in new version

The current and new wording of Art. 3 No. 2 (v)

The **current version** of Art. 3 No. 2 (v) reads:

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

(v) purchased from separate traders through linked online booking processes where the traveller's name, payment details **and** e-mail address are transmitted from the trader with whom the first contract is concluded to another trader or traders and a contract with the latter trader or traders is concluded at the latest 24 hours after the confirmation of the booking of the first travel service.

New Art. 3 No. 2 (v)

(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:

(v) 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.

No prevention of tour operator position through new version of **"linked travel arrangement"**, Art. 3 No. 5

Current version of Art. 3 No. 5 reads:

- (5) 'linked travel arrangement' means at least two different types of travel services purchased for the purpose of the same trip or holiday, not constituting a package, resulting in the conclusion of separate contracts with the individual travel service providers, if a trader facilitates:
- (a) on the occasion of a single visit or contact with his point of sale, the separate selection and separate payment of each travel service by travellers; or
 - (b) in a targeted manner, the procurement of at least one additional travel service from another trader where a contract with such other trader is concluded at the latest 24 hours after the confirmation of the booking of the first travel service...)

New Art. 3 No. 5

- (5) linked travel arrangement' means a combination of different types of travel services, **not falling under the definition of a package in point 2**, where, a trader which is **party to a contract on the provision of a travel service** and receives payments by or on behalf of a traveller invites a traveller to book additional type of travel service from another trader for the purpose of same trip or holiday and where a contract on the provision of an additional travel service is concluded at the latest 24 hours after the confirmation of the booking of the first contract.

Summary and Conclusion

- Sales of additional travel services are at risk due to revision of the PTD
- 3/24 h- rule leads to “packages” and in unacceptable increase in liability
- Tightening of the “linked online booking processes” could lead to “packages” by transmitting destination or time period information to other providers
- “Linked travel arrangements” no longer offer a fallback level
- Therefore appeal to maintain the legal situation or at least to make it clear that service providers are not subject to the new regulations