

..in five minutes..

26 April – 21 June 2013

The opinion of the Advocate General in the cases brought by the Commission against 8 Member States for the incorrect application of the special VAT scheme for travel agents comes as little surprise. While the Advocate General agrees with the Commission that the meaning of the term ‘traveler’ is ambiguous and that differences of implementation exist, the key issue for the AG is to interpret the text in a way that helps satisfy the aims of TOMS, namely simplification and a fair collection of tax revenue, as defended by the 8 Member States. This can only be achieved through a broad scope of the scheme, including wholesale and even corporate supplies. 19 Member States will now have to change their legislation to include wholesale supplies into the special scheme and numerous Member States may also have to bring corporate supplies into the scheme, if the final judgment of the Court follows the AG’s opinion. The Commission has achieved what it could not achieve through the Council: harmonization of the special scheme’s scope across Europe. But at what price for the industry? There will be winners and losers from the changes, but by and large, industry will draw the shorter straw as the ECoJ decision will fall short of the changes that are needed to remove weaknesses inherent in the current scheme. A revision of the special scheme is, more than ever, required.

*Christina Russe***Consumer protection: Adoption of the revision of the package travel Directive is imminent**

With the Directive proposal revising the package travel Directive expected to be adopted on 10 July 2013, ECTAA is working hard to get last changes into the draft proposal before its adoption by the Commission. The draft proposal will retain many of the obligations that are contained in the current legislation and will extend a few of the obligations also to those supplies of travel arrangements provided by linked websites.

For more details, see e-mail sent on 7 June 2013

**Air transport: Air legislation works well, says Commission**

The Commission has completed its assessment on the functioning of the air transport legislation on market access, CRSs, insurance requirements, price transparency, and assistance to passengers affected by airline insolvency, the so-called ‘fitness check’ on the Internal Aviation Market. While noting a number of areas of improvement, the Commission concludes that the legislative framework works overall well and no immediate legislative action is needed.

For more details, see e-mail sent on 21 June 2013 or consult the [Commission report on the fitness check](#)

**Air transport: MEPs not keen to step down from existing passenger rights**

ECTAA met with the Rapporteur and Shadow Rapporteur of the Regulation proposal on the revision of the air passenger rights legislation. They have been receptive to our concerns but have not made any commitments for specific amendments. Members have been invited to raise the industry concerns with their national governments (model letter).

For more details, see e-mails sent on 6 and 16 May 2013

**IATA: IATA AGM adopts new Resolution on NDC**

In the context of increasing criticism and public policy scrutiny on IATA’s New Distribution Capability Initiative, IATA members adopted a Resolution voicing support for the project at IATA’s Annual

General Meeting that took place this week in Cape Town. In the Resolution, IATA members address a number of NDC-related concerns raised by the distribution community, albeit on a general level.

For more details, see e-mail sent on 6 June 2013

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#### **IATA: ECTAA/GEBTA submission to the US DoT regarding NDC**

In its submission to the US Department of Transport, ECTAA/GEBTA call for the rejection of Resolution 787, as crucial questions for the travel distribution sector remain unclear. ECTAA/GEBTA propose to start from scratch by launching an open and transparent dialogue between all travel industry stakeholders in order to develop solutions that take into account the concerns of all players.

For more details, see e-mail sent on 3 May or consult the [submissions to the US DoT](#)

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#### **IATA: National data protection authorities examining NDC**

The 'Article 29 working party', the EU body bringing together the national data protection authorities of the EU Member States, has sent a letter to IATA noting that the NDC project raises a number of privacy and human rights concerns, in particular those related to the profiling of individuals. The data protection authorities have announced an in-depth analysis of the NDC initiative and have asked IATA to provide further written information on its activities and plans.

For more details, see e-mail sent on 6 May 2013

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#### **IATA: Travel Agent's Handbook 2013 + Passenger Agency Conference Resolutions Manual**

The new editions of the IATA Travel Agent's Handbook, effective 1 June 2013, have been posted on IATA's Agent home website. In addition, all resolutions contained in the new Passenger Agency Conference Resolutions Manual effective 1 June 2013 can be found in the drop-down menu on the Resolutions section of the Agent home website. Further information – BSP Manual for Agents, etc. – is currently being updated by IATA and will be posted soon.

For more details, see e-mail sent on 6 May 2013 or consult [IATA's Agent home website](#)

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#### **Data protection: Quick solution required to the Russian PNR regime**

The EU has not approved Russia's new legislation on the collection of passenger name records, which is scheduled to enter into force as of 1 July 2013. This will put European transport providers into a difficult position, as they will have to provide the PNR to Russian authorities if they want to continue operating in Russia, but this is in breach of EU law which prohibits the unauthorized transfer of personal data to third countries. Members should contact their national governments to alert them of this situation and put pressure on the Commission to find a solution.

For more details, see e-mail sent on 5 June 2013

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#### **Internal Market: How difficult is it to get insurance in another Member State?**

The European Commission has launched a consultation to assess the difficulties encountered by businesses in obtaining insurance when providing services in another Member State on a temporary basis. Members can either respond directly to the consultation or provide their comments to the Secretariat by 20 July 2013, with a view to submitting a consolidated answer.

For more details, see e-mail sent on 14 June 2013 or see [consultation](#)

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#### **Competition: More transparency and neutrality in Google searches**

ECTAA submitted comments to the European Commission in the Google antitrust case regarding the way Google displays links to its own specialised search services in its web search results. ECTAA has raised concerns about fair competition in vertical (specialized) search and the use of third party content in Google's search results.

For more details, see e-mails sent on 7 and 29 May 2013

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#### **Competition: Commission gives green light to AC/LH/UA revenue-sharing joint venture**

The European Commission has accepted commitments offered by Air Canada, United and Lufthansa to address the Commission's concerns that the parties' cooperation under a revenue-sharing joint venture may be in breach of EU antitrust rules and harm premium passengers on the Frankfurt-New York route. ECTAA expressed reservations in respect of these commitments earlier on.

For more details, see e-mail sent on 24 May 2013

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#### **Competition: Further investigations into proposed acquisition of Olympic Air by Aegean Airlines**

The European Commission has decided to open an in-depth investigation into the matter. The Commission has concerns that the transaction may lead to price increases and poorer service on several domestic Greek routes out of Athens (to Chania, Santorini, Mytilene, Corfu, Alexandroupolis and Kos), where the merged entity would have a monopoly or an otherwise strong market position. Members were invited to submit their comments.

For more details, see e-mail sent on 8 May 2013

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#### **State aid: Commission temporarily approves rescue aid for LOT Polish Airlines**

The European Commission has concluded that a rescue loan of PLN 400 million (around €100 million) granted by the Polish government to LOT Polish Airlines was in line with EU state aid rules. The Commission has approved the measure temporarily, until it can take a position on the restructuring plan to be submitted by Poland by 20 June 2013.

For more details, see e-mail sent on 16 May 2013

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#### **Unfair terms: Unfair Trading Practices in the Travel Distribution Sector**

Following the Commission's Green Paper on Unfair Trading Practices, ECTAA has submitted its comments to the Commission raising concerns of unfair trading practices in the regulatory environment set by the IATA Passenger Agency Conference, such as the use of Agent Debit Memos, the unjustified termination of a commercial relationship without a reasonable period of notice, etc.

For more details, see e-mail sent on 6 May 2013

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#### **VAT: Advocate General proposes broad scope of TOMS**

In the opinion delivered on 6 June in the cases pending against 8 Member States for the incorrect application of TOMS, the Advocate General proposes that TOMS should apply to 'customers' in the broadest sense, i.e. B2C and B2B, including wholesale and corporate supplies. She also considers that it is not possible to allow the calculation of a global margin for a period and to carry forward a negative amount to the next period. A final judgement of the ECJ is expected in the coming months.

For more details, see e-mail sent on 10 June 2013 or consult the [opinion of the Advocate General in the case C-189/11](#)

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#### **VAT: The Commissions contemplates fate of TOMS proposal adopted in 2002**

With the European Court of Justice scheduled to deliver a judgement on the scope of the special VAT scheme for travel agents (TOMS) in the coming months, the Commission is seeking industry's views on what to do in terms of the Directive proposal adopted in 2002 which aimed at modernising the special scheme and ensuring a more harmonious application across Europe.

For more details, see e-mail sent on 23 May 2013

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#### **UNWTO: Invitation to adopt the UNWTO Global Code of Ethics for Tourism**

ECTAA has been invited to sign the Private Sector Commitment to the Global Code of Ethics for Tourism formulated by the UNWTO. The Commitment constitutes a formal pledge to uphold ethical principles related to the sustainable and responsible development of tourism, enshrined within the UNWTO Global Code of Ethics. The ECTAA D&S Committee will review this at its next meeting.

For more details, see e-mail sent on 6 June 2013 or consult the [UNWTO website](#)

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#### **Tourism: EU Mission to RUSSIA - promotion of high-end luxury travel**

In the frame of the Mission for Growth for Russia, Commission Vice-President Tajani has invited interested travel agents and tour operators specialising in high-end luxury travel inbound from or outbound to Russia to accompany him on his mission to St. Petersburg on 18 June.

For more details, see e-mail sent on 5 and 7 May or consult [website of the Commission](#)

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## Other News in Brief

- Implementation of the European Tourism System of Indicators for Sustainable Management at Destination Level (ETIS) - [call for expression of interest for destinations](#)
- Supporting the enhancement and promotion of sustainable transnational thematic tourism products - [Call for proposals](#)

## Calendar of ECTAA meetings

24 June 2013	Destination and Sustainability Committee, Brussels
17 July 2013	Fiscal Committee, Brussels
<i>September</i>	Legal Committee, Brussels
16-17 October 2013	Fiscal Committee, Athens
28-29 November 2013	ECTAA bi-annual meeting, Dublin

## EU consultations / ECTAA surveys

- [Consultation on problems faced by service providers in obtaining insurance cover when providing services in another Member State on a temporary basis](#), open until 16 August 2013