



Raising standards for consumers

POSITION PAPER

THE COMMISSION 'S PROPOSAL FOR A REGULATION TO ENHANCE TRANSPARENCY IN THE FIELD OF SHORT-TERM RENTALS



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EXECUTIVE SUMMARY

ANEC welcomes the Commission's proposal for a Regulation to enhance transparency in the field of short-term accommodation rentals. ANEC considers it imperative to find new ways of defining the relationships between consumers, prosumers, providers and platforms to establish whether consumer law (B2C) or national contract law (C2C) applies to the transactions.

Matters relating to the sharing economy require to be adequately addressed by both regulations and standards.

There are existing standards and guidelines that can be helpful in the development of the regulation on short-term rentals in the context of the collaborative economy: ISO 10002: 2004 - Customer Satisfaction: Complaints Handling' or ISO 10008:2013 Quality management - Customer satisfaction - Guidelines for business-to consumer electronic commerce.

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INTRODUCTION

ANEC welcomes the Commission proposal for a Regulation to enhance transparency in the field of short-term accommodation rentals¹ (hereafter: Proposal). We fully agree with the Proposal's aim to enhance transparency in the field of Short-Term Rentals (STRs) and consider that the Proposal is certainly a step in the right direction. However, there is more to be done to protect the interests of consumers and to ensure the proper functioning of the internal market.

¹ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on data collection and sharing relating to short-term accommodation rental services and amending Regulation (EU) 2018/1724

https://ec.europa.eu/commission/presscorner/detail/en/IP_22_6493

1 | Need for increased clarity

The Proposal aims to harmonise transparency requirements for the provision of STRs through online platforms, and prescribes that hosts must provide specific information to competent authorities. 'Hosts' are defined as natural or legal persons that provide, or intend to provide, on a professional or non-professional basis, an STR against remuneration through an online short-term rental platform. (Art.3(2)).

From a consumer protection perspective, ANEC is concerned that the introduction of these categories only creates further uncertainty as a 'natural person' may be both a consumer as well as a trader for the purposes of consumer law and, in exceptional cases, the same applies for 'legal persons'.

While a "natural person who is acting for the purposes which are outside his trade, business and profession"² is understood to be a consumer under EU law, in its judgment on *Gruber*, the CJEU interpreted the notion of consumers strictly. It ruled that a [natural] person may not rely on the special rules of jurisdiction laid down in Articles 13 to 15 of the 1968 Brussels Convention, unless the trade or professional purpose is so limited as to be negligible in the overall context of the supply, the fact that the private element is predominant".³

In addition, some Member States granted an option to regard certain legal persons as consumers in their respective laws, which are now exemptions from the maximum harmonisation nature of the Consumer Rights Directive.⁴

There needs to be discussion on how the current definitions of 'consumer' and 'provider' should be redefined to cover the new interactions that are occurring in the digital market. This is important because these definitions will frame the type of relationship in which a transaction can, legally speaking, be considered, as well as the issue of whether consumer law applies (B2C) or national contract law (C2C)⁵.

² For example: Directive 2000/31, Art. 2(e); Directive 2002/65, Art. 2(d), Directive 2005/29, Art. 2(a)

³ Case C-464/01 *Johann Gruber v Bay Way AG* [2005] ECR I-439, para. 39.

⁴ Research Group on the Existing EC Private Law, Contract II—*Principles of the Existing EC Contract Law* (Sellier, European Law Publishers, Munich, 2009), p. 59. According to this document, Spain, Belgium, Slovakia, Denmark, Greece, and Austria have introduced such laws.

⁵ CONSUMERS INTERNATIONAL/ANEC Position Paper - SHARING ECONOMY prepared for the International Workshop Agreement (IWA) on the Sharing Economy in 2017 <https://tinyurl.com/5x83u6xc>

2 | Shaping a response in the consumer interest

As collaborative economy models gain ever greater importance in consumers' daily lives, ANEC would like to see a situation where the consumer is at least as safe, and treated at least as fairly in the collaborative economy, as they were in the traditional economy and can expect their rights to be upheld.

3 | The role of standards

There are existing standards and guidelines that can be helpful in the development of the regulation of the collaborative economy and STRs.

Standards are voluntary and complement legislation or industry codes. Standards can increase the assurance of compliance with regulatory requirements and raise the quality of services provided.

The annex below provides an illustrative list of standards to which ANEC has been contributing and to which reference could be made.

Annex on international standards of possible relevance

Online reviews

ISO TC 290 'Online Reputation' developed ISO standard 20488:2018 *Online consumer reviews -- Principles and requirements for their collection, moderation and publication*. This aims to establish codes of practice in the area of online reviews that enhance the transparency and trust for all stakeholders involved and improve the management of review websites and reduce the frequency of "fake reviews".

ANEC contributed to developing this standard in light of the findings in our 2015 study, 'Cross-border Online Shopping within the EU', which showed online reviews do influence online purchasing decisions, with 78% of European consumers referring to them before making choices. We believe use of ISO 20488:2018 would allow consumers to compare products and services with greater confidence.

Redress and complaints handling

Consumers' dissatisfaction with complaints handling can be addressed by raising awareness to businesses of the benefits of good complaint resolution. An international standard already exists - ISO 10002:2004 *Customer Satisfaction: Complaints Handling* - and ANEC has started activities on a New Work Item on the subject in the European standardisation committee CEN TC 447.

E-Commerce

ANEC recommends that the recently revised *ISO 10008:2022 Quality management — Customer satisfaction — Guidance for business-to-consumer electronic commerce transactions* is also considered.

With the involvement of both ANEC and Consumers International in the revision, we succeeded in enhancing the standard. It now includes improved provisions, especially on clauses about services, accessibility, vulnerability, safety, data protection, the online marketplace and Artificial Intelligence.

The revised standard aims to provide a fair, effective, efficient, transparent, and secure B2C ECT system in order to boost consumer satisfaction and their trust in B2C ECTs. We call on the Commission to consider the ISO Standard for possible adoption as a European standard and assess whether it could be beneficial in the context of the implementation of the Digital Services Act and the Proposal on Short Term Rentals.

Sharing economy

ANEC also participates in ISO TC 324 'Sharing economy'. Its [ISO 42500:2021](#) *Sharing economy — General principles* focuses on deliverables regarding 'Provider verification' and 'Operation on platforms'.

ISO 42500:2021 concerns all third-party platforms which enable providers and users to exchange products and assets i.e. Amazon, Booking.com, Htels.com, Deliveroo, Uber, AirBnB etc.

4 | Acknowledgements

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ANEC is the European consumer voice in standardisation, defending consumer interests in the processes of technical standardisation and the use of standards, as well as related legislation and public policies.

ANEC was established in 1995 as an international non-profit association under Belgian law and is open to the representation of national consumer organisations in 34 countries.

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