



DRAFT PRINCIPLES ON REGULATION OF SHORT-TERM RENTAL

The collaborative economy and short-term rental offer Europe some unique, new opportunities for growth, sustainability and equality. Opportunities that we need. And they are right in front of us.

Short-term rental provides a major increase in the available capacity of accommodation and invites tourists inside our homes giving guests an authentic experience. Tourism, we all agree, provides hundreds of thousands of jobs, restaurants, shops, guests in the museums, airline-offers etc.

Highest number of beds

In Europe, tourism accounts for up to 10 percent of the economy and the short-term rentals represents by far the highest number of available beds. Short-term rental contributed to the recovery of Berlin after the fall of the Berlin wall and today the city attracts thousands of guests to the old apartments. In the old city of Stockholm, where new buildings cannot be built, people are invited into the Swedes homes where there is a spare room. In Croatia, they have taken up the competition with the other Mediterranean destinations thanks to the huge capacity of primary homes for rent in the summer-time.

Equality and inclusion

And tourism has become an opportunity for everybody. The student can travel to Paris, to Mallorca and to Rome just as she or he prefers even on tight budget. Everybody can participate in the tourism community even if they are not a hotel owner, just by renting out a spare room. And as a rural community you don't need to be a capital or a top-destination with big hotels in order to be part of the booming tourism sector – you can compete by using existing houses and apartments. Today you do not need to be a wealthy traveler, big mogul or a big destination to engage in tourism.

Sustainability is crucial

Tourism just as the rest of the planet must be mindful of its resources. With short-term we do not need to build one more building to meet the growing demand in tourism, because it is sustainable. When the house is empty anyway we can put it to better use and properties in rural areas or in cities can be put into use in the tourism sector. Tourism will grow in the coming years – and one answer is by using our building capacity more intelligently and sustainably.

Fair regulation for all

Rules must be adapted to the new reality. Like the internet provided transparency and new intelligent opportunities to the market, regulators must use the new opportunities to create new tools of regulation that are simple, straight forward easy to understand and comply with. In Europe, we need clever notification schemes, fair taxation, good consumer protection, safety measures, affordable housing, and livable city environments. We must avoid fragmented policies with very different approaches around Europe and even from one region to another.

Short-term rental is part of the solution

Many of the advocates for more regulation on short-term rental are concerned with protecting their own business rather than with ensuring tax-payment to the society or to protect the consumers. That is legitimate, but it is not relevant for regulation to protect one specific part of business. We within the short-term rental sector are sure that we can provide solutions so that what the tourists and consumers demand is well protected, just like the interests of society. But most of all, the doors to the collaborative economy should not be closed. These new opportunities will drive job creation, innovation and prosperity in the years to come because they deliver growth, equality and sustainability.



5 PRINCIPLES OF A CENTRAL IMPORTANCE TO FUTURE REGULATION

Notification schemes

CURRENT SITUATION	EHHA's PROPOSAL	EXAMPLES TO CONSIDER
<p>Society needs information about the range of short-term rental activities.</p> <p>Many cities or regions impose different systems without taking into consideration that many who rent out their property are private persons and do it on occasional basis.</p> <p>Many different schemes are implemented around Europe which creates fragmented and unnecessary regulation.</p>	<ul style="list-style-type: none">• In many European countries, there are no need of notification schemes.• Any kind of notification scheme should be online, simple, automatic, easy to understand and comply with.• Any such scheme should serve a specific necessity, be a proportionate measure and be a matter between the host and the public authorities.• Online intermediaries provide a neutral hosting service and cannot be held liable or be forced to actively search for illegal activity on their market places as specified in the E-Commerce Directive. If enforcement authorities notify platforms about illegal activity they shall take appropriate measures; also known as 'Notice and Take Down'.• Authorisation schemes are not appropriate regulation for STR.• There is a need for data of STR in Europe which the European Commission together with the industry can provide.	<ul style="list-style-type: none">✓ Due to a simple, clear and easy notification scheme imposed by the Portuguese law, the number of registered short-term rental units has tripled from 11.000 to 36.000 STR units during the last 2 years.✓ Due to unclear laws In December 2016 a Spanish court annulled a large fine imposed by a regional government because no laws were violated.✓ Some online intermediaries already indicate a registration field in cases where this is an obligation for the owner.✓ In cases of illegal activity on their market places, online intermediaries already comply with "Notice and Take Down" procedures after notification from authorities as indicated by the E-Commerce Directive.

Taxation

CURRENT SITUATION	EHHA's PROPOSAL	EXAMPLES TO CONSIDER
<p>Tax authorities are looking for models to ensure that both tourist taxes and rental income taxes from peers are collected correctly.</p>	<ul style="list-style-type: none">• Simple, straightforward and fair city tax systems should be put in place to allow for easier collection of relevant tourist or accommodation taxes.	<ul style="list-style-type: none">✓ Some companies already collect tourist tax after voluntary agreements with authorities.✓ Estonia installed an innovative 1 click on-line taxation declaration for collaborative economy



In France around 2,000 local tourist taxes exist, which makes collection extremely challenging.

Many tourist taxes are not adapted to short-term rental accommodation.

- Collection of personal income tax is a matter between the host and the taxation authorities.
- Governments should simplify and communicate the personal income tax rules in a simple and straightforward way.

platforms users in the transport sector. The number of users increased by 4 times.

Thresholds - peers vs. non-peers

CURRENT SITUATION	EHHA's PROPOSAL	EXAMPLES TO CONSIDER
Member States apply a number of different restrictive thresholds on STR: maximum number of properties/rooms and people staying (BE, ES, NL); maximum and minimum number of days (BE, UK, ES, IE, NL); different types of residence (primary residence vs secondary residence) (FR); presence of hosts while renting out the property (BE); different types of space to be rented (flat vs room) (ES); frequency and activity purpose (IE); minimum number of days' break between rentals (IT); living purpose of the flat and percentage of the surface rent (DE).	<ul style="list-style-type: none"> • Any threshold put in place must be proportionate, non-discriminatory and justified by a legitimate objective. • Thresholds only attempting to limit competition to other types of accommodation and limiting the EU freedom to freely provide services and do business must be removed. • The differentiation between peers and non-peers (professional is a misleading wording) is mainly related to taxation issues and should not be restricting business and enterprise. • Any unwanted effects in specific areas of cities should be treated locally without imposing the same rules in areas which are not exposed to the same problems. 	<ul style="list-style-type: none"> ✓ The thresholds on short-term rental in Berlin have been declared unconstitutional by court as well as the declaration of the minimum period of 5 days provided by the Madrid Decree. ✓ The Superior Court of Justice of the Canary Islands ruled that excluding holiday home rentals from tourist areas lacks legal coverage in the Law on Tourism on the Canary Islands and violates the fundamental EU freedom to provide services without being justified for reasons of public order. ✓ Too restrictive threshold as limits on secondary homes like in Paris or specific demands on short-term rental units in Brussels are not aligned with the European laws.

Safety and Security

CURRENT SITUATION	EHHA's PROPOSAL	EXAMPLES TO CONSIDER
STR already comply with safety requirements such fire regulations for the simple reason that the building units already have restrictive rules as first and second homes. Property used for STR is already subject to regulation – either through locally-approved fire regulations, building codes or rules governing	<ul style="list-style-type: none"> • An apartment used occasionally for tourists needs regulations designed and applied in a proportionate and considered way. • Consumers should be adequately protected by current legislation on buildings. 	<ul style="list-style-type: none"> ✓ Many countries have minimum requirements on safety. ✓ There is a minimum set of safety criteria in Portugal: STR has to have a fire extinguisher, a complaint book, an exit sticker, contact details of the owner and emergency numbers.



short- or long-term paid accommodation.

✓ The Scottish Small Sleeping Fire Regulations is as a proportionate application of the Fire Regulations.

Consumer Rights Protection

CURRENT SITUATION	EHHA's PROPOSAL	EXAMPLES TO CONSIDER
<p>Members States impose different consumer protection schemes and create a fragmented nontransparent situation for consumers as well as business but more than any new rules, users need simple and easily understandable rules.</p> <p>STR is already covered by consumer laws and principles.</p>	<ul style="list-style-type: none">• EHHA highlights the importance to separate services provided via on-line intermediaries:<ol style="list-style-type: none">1. The first service is provided by the online platform itself as it provides the infrastructure for the conclusion of a contract between different users. According to the E-Commerce Directive this service is being acknowledged as an "information society service" and it is also subject to requirements set out by the Unfair Commercial Practice Directive. Where a contract is concluded between the online platform and a consumer, the Directives on Consumer Rights and Unfair Contract Terms will apply.2. Depending on the legal status of the service provider (i.e.: whether it is a trader or not) and on the nature of the service, different legal regimes will apply. EU consumer protection rules only apply to the legal relationship between traders and consumers. If the service is provided by a peer to a consumer (P2C or C2C), EU consumer rules do not apply, and the provision of service is regulated national civil law.	<ul style="list-style-type: none">✓ STR industry is regulated by the demand from consumers and must comply with their needs.✓ Existing studies show very few consumer complaints on STR.✓ In Barcelona complaints from neighbors are at 0,02% of stays. The figures presented account for a total of 50 complaints being filed per month regarding tourist apartments in the entire city of Barcelona.✓ Research undertaken by some of the European Consumer Organisation's (BEUC) member organizations shows that many consumers in Belgium, Spain, Italy and Portugal are very satisfied (62% in Italy to 85 % in Belgium) with collaborative economy solutions as it gives them access to cheaper, more convenient and tailor-made services.