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New EU Proposal on Short-Term Accommodation Rentals: Analysis of the Rules on Transparency, Tracing and Data-Sharing

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On 7 November 2022, the European Commission published a [proposal for a Regulation on the collection and exchange of data on short-term rental services](#), with the aim of establishing harmonized rules and providing public authorities access to data. The initiative intends to facilitate the development of a responsible, fair, and trusted growth of short-term rentals (STRs), as part of a well-balanced tourist ecosystem. At the same time, it aims to ensure a level playing field for all accommodation service providers and to respond to the many requests from stakeholders, by offering balanced solutions for cities, peers, professional short-term rental service providers and platforms, whilst benefiting in particular small and medium-sized enterprises.

Background

STRs have become an increasingly important part of the tourism sector in recent years. According to the European Commission, they now represent nearly one-quarter of the total EU supply of tourist accommodation. This growth has been largely supported by the emergence of online platforms providing short-term rental services, such as Airbnb or Booking.com.

The European Commission is committed to harmonizing and improving the framework for data generation and data sharing on short-term rentals STRs across the European Union. To achieve this, the Proposal offers a harmonized approach to registration schemes for hosts, with an obligation for public authorities to maintain appropriately designed registration schemes if they want to obtain data for policymaking and enforcement purposes.

In addition, it seeks to enhance transparency in the STR sector by creating legal frameworks governing transparency and data sharing; providing standards and tools to facilitate efficient data exchange between short-term rental platforms and public authorities; as well as fostering uniformity of short-term rental regulations throughout the EU.

With these measures in place, STR providers and local authorities can work together to ensure that short-term accommodations are used responsibly and in line with applicable laws. Ultimately, this recommendation will benefit all parties involved and help create an environment of trust and security while allowing short-term rentals to continue to grow throughout Europe.

This new proposal, which the EC has been working on for several years, stems from the demands made by several countries due to the social pressure that STR produce in certain areas. The proposal's main objective is to tackle the negative side effects of the online short-term rental market.

The results of STR are visible in areas of high demand, pushing up housing prices and depriving cities of much-needed tax revenue. By providing governments with access to STR data, and harmonizing the framework, they could more effectively monitor properties and combat any sort of abuse. The STR sector is growing rapidly, and the European authorities must continue to take steps to ensure its benefits are maximized. By requiring sharing of booking data with national authorities across all Member States, this move will help protect STR users while ensuring businesses remain compliant with relevant regulations. In turn, this should lead to a healthier STR market within the EU.

The Proposal

The proposal stipulates the rules for the collection of data as well as the data exchange between the competent authority and online STR platform providers, trying to address existing market imbalances, legal uncertainty, and fragmentation. These provisions will apply to all of the companies within the ecosystem, irrespective of their place of establishment.

In particular, the proposed regulation will apply to all online STR platforms within the meaning of Article 3(i) of the [Digital Services Act \(DSA\)](#), which would cover service providers that, at the request of a recipient of the service, store and disseminate information to the public, allowing guests to enter into remote contracts with hosts for the provision of STR services.

The Digital Services Act (DSA) is a significant advance in helping to take down unlawful services and products distributed by online intermediary platforms. However, the STR sector presents unique challenges that cannot be solved solely with the DSA. The STR industry is complex and vastly varied, making it difficult to create a one-size-fits-all solution.

Registration

The regulation aims to establish the registration conditions to be met by all EU countries, ensuring that in those areas where a registration procedure already applies, or where competent authorities have requested data from online short-term rental platform providers, the same conditions apply in a harmonized way. This registration process is necessary to allow competent authorities access to the information and data they need. The scope of the registration is limited to basic identification information. To ease the burden of this registration process, the Member States should ensure that when renting out STR units, all relevant documents and information are submitted along with a unique registration number. Furthermore, hosts should be able to authenticate themselves using electronic identification methods.

The Member States shall ensure that registration procedures operate based on declarations made by hosts and that they allow for the automatic and immediate issue of a registration number upon submission of the following information:

- The address of the property;
- The type of unit;
- Whether the unit is offered in whole or in part, and whether it is the host's primary or secondary residence;
- The maximum number of guests that the unit can accommodate.

In relation to the host's information, the Member States should request the host's identification details such as name and surname, national identification number, address, contact telephone number and e-mail address. In case the host is a legal entity, in addition to the contact details, the authorities should also obtain the name of the company's representative, as well as the name and registered office of the company. All this information must be accompanied by documents proving its truthfulness and accuracy and must be updated by the hosts in case of significant changes, which will be responsible for the consequences that may arise otherwise.

The Member States shall ensure that the information provided by the hosts is kept secure and confidential, ensuring that only one record is kept per accommodation. In addition, the proposed regulation states that the Member States must implement the necessary technical measures so that information and documentation can be updated by the host, as well as validate that the registration numbers are correct.

Hosts must also be able to remove a registered unit if the circumstances of the accommodation's status change, and they no longer offer such a service. Finally, in case the host has already made a registration locally because the area where it is located already has a similar procedure in place, the host is obliged to declare it.

At the moment, this presents a challenge for small and medium-sized businesses, who may not have the jurisdiction-specific resources necessary to comprehend and adhere to each regulation. Large firms such as Airbnb and Booking.com can more easily access these resources, but smaller companies are at a disadvantage when it comes to compliance with regulations outside of their jurisdiction. With the proposal, the harmonized legal framework will ensure fairness and equal access across all business sizes.

Verification by authorities

The proposal includes verification and identification mechanisms by the authorities, in a way that, at any time after the issuance of a registration number, they may verify the declaration and any supporting documentation submitted by a host. If the information provided is incomplete or incorrect, the authorities may request rectification of the information and documentation.

If the host fails to rectify the information, or if there are doubts about the veracity of the information, then the authority may suspend the validity of the registration number and issue an order requesting online STR platforms to remove or disable access to any listings relating to the unit in question.

The authorities must, in any case, notify the host of the intention to suspend its registration on such grounds as they deem appropriate, allow the host to be heard, and in case of continuing doubts about the registration, notify the host in writing of their decision.

The validity of a registration number shall remain suspended until the host has rectified the relevant information and documentation with the competent authorities.

The proposal also includes that the Member States should ensure that registration procedures are in line with national legislation, which allows competent authorities to order online STR platform providers to remove listings related to units offered without a registration number or with an invalid registration number. By ensuring these registration procedures are followed, share bookings data can be obtained and checked efficiently, while also protecting STR hosts from disproportionate burdens.

Compliance by design

The proposed Regulation not only sets out the regulatory framework to be followed by the Member States but also puts the spotlight on holiday rental service platforms, establishing the following requirements to be implemented in their systems:

- They must design and organize their platform in such a way that hosts self-declare whether the unit offered for STR unit services is located in an area where a registration procedure has been established or applies, and if so, allow users to identify the unit by a registration number, ensuring that hosts have provided the registration number before allowing the services to be offered.
- They shall also randomly check the declarations made about the hosts.

Furthermore, the platforms should have the necessary measures in place to ensure that competent authorities are informed without delay in case random checks detect any incorrect declarations.

Companies should therefore strive to integrate compliance into the design of their registration process and doing so will allow them to provide a safe and compliant environment for both businesses and customers alike.

Single Digital Entry Point

After the adoption of this Regulation, the Member States will have a transitional period of two years to set up or adapt the existing local/national registration system (connecting local registration systems, if any) and establish the IT infrastructure at a national level to streamline the exchange of data with the platforms through the Single Digital Entry Point.

The Member States will also have to designate the authority that will be responsible for the operation of the Single Digital Entry Point. The Single Digital Entry Point should enable the receipt and sending of activity data, the corresponding registration number and the URL of the listings provided by the platforms, every month for all short-term rental platforms.

In the case of small or micro-companies that have not reached a monthly average of 2,500 or more active hosts in the previous quarter, the notification obligation will be carried out at the end of the quarter, reducing the resources that may be required to carry out this procedure.

The STR sector has become increasingly data-driven in recent years, with four major players collaborating with European authorities in 2020. This agreement between the platforms and Eurostat provided insight into short-term rental activity on a national, regional, and city level. This data revealed information such as the number of stays booked, and the number of nights spent in short-term accommodation across Europe. This partnership was important for understanding STR trends more accurately, allowing policymakers to make better decisions based on reliable research. Moreover, this collaboration enabled an increase in regulatory efforts across STR sectors in Europe.

To ensure STR businesses remain compliant with the proposed regulations set forth by the Commission, they should therefore invest in updating their processes to include the submissions of information to the relevant authorities every month. To make this process more efficient and cost-effective, it still remains to be seen the technical developments required but, in my opinion, these will revolve around application programming interface (API connection) integration. This would enable data sharing between STR businesses and authorities in a secure manner, allowing for compliance without additional costs.

This new insight into STR will enable better enforcement of EU laws that regulate this sector, protecting consumers against unfair practices while providing legal certainty to businesses operating within STR platforms. Going forward, we can expect more detailed analysis from Eurostat that will help inform policymakers and regulators at local, national and European levels. With a better understanding of STR activity comes improved consumer protection and increased legal certainty across Europe.

In addition to providing an interface for platforms to submit information, the Single Digital Entry Point should facilitate the random checking of the validity of registration numbers provided by hosts and provide an interface for authorities to receive data from the unit located in their territory.

To harmonize procedures, and seek the interoperability of records, the proposed regulation also establishes that the Single Digital Entry Point must be able to re-use the information or documentation to be provided by hosts, guaranteeing the confidentiality, integrity, and security of the processing of activity data, the registration numbers and the URL of the advertisement transmitted by the platforms.

Furthermore, the Single Digital Entry Point shall not store information containing personal data, ensuring the automatic, intermediate, and transitory processing of personal data that are strictly necessary to provide access to the authorities.

This is intended to allow governments to better monitor tourist activity in their countries and help increase transparency in the sector. It also accords with the EU's commitment to protecting consumer rights by providing clarification on STR laws and ensuring compliance.

Access to the information transmitted shall only be granted to the competent authority where the intended purpose of the processing is one of the following:

- Monitoring compliance with registration procedures, or;
- The application of rules governing access to and supply of STR services provided that such rules are non-discriminatory, proportionate and in compliance with Union law.

Finally, and to enable the Member States to design their policies according to actual needs as a

result of the accommodation uses, the proposal compels the Member States to aggregate the activity data obtained and transmit them every month to national statistical institutes and Eurostat to produce statistics, as well as at a national, regional and municipal level, including the total number of units and the maximum number of guests that the unit can accommodate in each geographical subdivision.

Enforcement

The bodies responsible for ensuring that this Regulation is enforced once adopted will be those designated by the Member States for the implementation and supervision of intermediary service providers following the DSA's enforcement and supervision. The DSA sets out an unprecedented new standard for the accountability of online platforms regarding illegal and harmful content and will provide better protection for internet users and their fundamental rights.

In addition, the proposal establishes that the Member States will lay down rules on the applicable penalties to the infringements by platforms and ensure that these penalties are effective, proportionate, and dissuasive.

With the enforceability of this proposal, it will solve a difficult dilemma faced by operators at the moment of compliance regarding certain requests from local authorities. On the one hand, in some locations, they must share STR data and identify listings that do not meet regulatory requirements. On the other hand, this active monitoring obligation of all STR postings on their sites might contravene the E-commerce Directive (awaiting the implementation of the DSA). This has put platform operators in a difficult position, as they must balance their regulatory obligations against their right to ensure user privacy and have control over what content is posted on their sites. It is key that policymakers provide clear guidance on how short-term rentals should be handled while ensuring user privacy rights are respected and compliance with applicable regulations is achieved.

What will be the role of national and local authorities?

National and local authorities will play a crucial role in regulating STR operations. They will be responsible for ensuring that operators comply with all applicable requirements, such as fire protection regulations and civil liability insurance. Furthermore, local administrations must inform STR operators of the necessary procedures to complete, including the submission of documents and the conduct of inspections. Adherence to these regulations is essential in order to promote healthy STR practices and protect guests from potential harm. It is therefore critical that local authorities remain proactive and diligent in their efforts to ensure compliance.

Another important duty for local destination authorities is that they must carry out detailed data processing and analysis to evaluate the STR sector in their area of jurisdiction. By building a comprehensive understanding of the STR sector (e.g., volume, level of concentration in certain areas) and assessing its overall impact on their locality, destination authorities will be able to respond appropriately by introducing measures or policies that could potentially optimise their STR strategies.

What has been left out of the proposal?

Despite STR services offering consumers more choice and convenience, the fact that they have not been regulated up until now has led to many of the same issues that come with other collaborative economy services, namely lack of compliance with health and safety requirements, tax obligations, and housing availability. This has caused a great deal of concern for local policymakers, who are having to reconsider the rules governing tourist accommodation establishments in their cities. As a result, traditional accommodation providers have put pressure on regulators to ensure fair competition between them and STR by establishing equal regulations. Unfortunately, these issues have been put aside in this proposal.

In the process leading up to this proposal, the need for a comprehensive proposal taking into account these issues of fairness and safety to avoid any possible unintended consequences on STR regulation and the accommodation sector was always on the table. By not doing so, it could lead to an uneven playing field that disadvantages one sector over another, creating further inequality between traditional accommodation providers and STR services.

While the proposal would help to reduce compliance costs for all market players, in my opinion, the proposal does not adequately capture the issue of differentiating between STR owners who occasionally rent their properties and those who do so on a professional basis. When strictly referring to professional STRs, the widespread opinion is that they should be subject to the same rules and regulations as other types of short-term accommodation and in the hospitality sector, such as hotels and hostels, including labour laws, taxation, environmental safeguards, intellectual property protections, safety requirements, health standards, security measures, food regulations, statistical reporting, and data-sharing obligations.

In addition to following these requirements, it is essential for STR companies with multiple accommodations in a single building or with a corporate structure that allows them to operate across multiple locations to also comply with local zoning ordinances. This will ensure that their operations do not negatively impact the character of a neighbourhood or adversely affect the quality of life for nearby residents.

Therefore, policymakers must take appropriate steps when developing a regulatory instrument for STR so that peer-to-peer and professionalised STR are effectively managed and monitored. These steps should include establishing reasonable restrictions on STR operations, defining clear parameters for STR businesses, and ensuring adequate enforcement of STR regulation. Only with a comprehensive and well-defined regulatory framework in place can STR be managed in a manner that ensures housing security, consumer protection, and the preservation of affordable housing supply.

In short, any STR regulatory initiative should ensure that STRs do not lead to distortions of competition or any other negative impacts on the local population, while at the same time protecting landlords' right to rent out their property in a safe and responsible manner. It is essential for these initiatives to include provisions that guarantee that such measures are proportionate and justified by an overriding reason relating to the public interest in order for them to be successful. Only then can STR services continue contributing positively to the hospitality industry.

Conclusion

By adopting these measures, the European Commission can continue to foster an atmosphere of trust and transparency STRs that will uphold the standards for local tourism markets throughout Europe. It will also create a level playing field, allowing STR operators to compete on equal terms with larger providers. This new regulation is an important step towards promoting sustainable tourism and consumer protection within the EU. It will bring much-needed clarity to STR operators while protecting consumer rights.

The proposal is the latest step towards clearer rules and better ways of working between the EU industry and public authorities. The aim is that more data should ultimately lead to clearer, fairer, and more proportionate rules across the EU.

The proposal is now open for [feedback](#) for a minimum period of 8 weeks. All feedback received will be summarized by the European Commission and presented to the European Parliament and Council with the aim of feeding into the legislative debate, to continue its legislative procedure.

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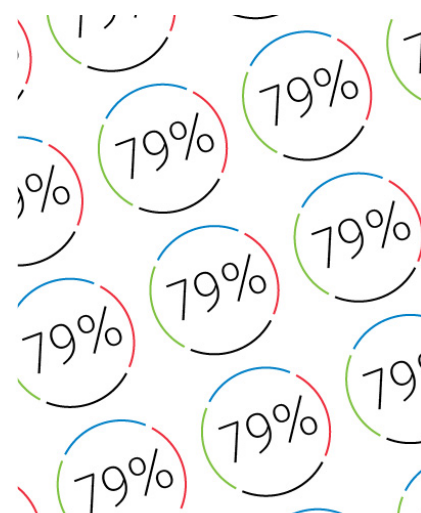
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