Council of the European Union

Brussels, 14 November 2022
(OR. en)

Interinstitutional File: 2022/0358(COD)

14741/22
ADD 1

TOUR 76
COMPET 895
IND 471
MI 820
CONSOM 290
TELECOM 456
DIGIT 203
DATAPROTECT 311
IA 186
CODEC 1741

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	7 November 2022
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	SEC(2022) 393 final
Subject:	REGULATORY SCRUTINY BOARD OPINION Proposal for a Regulation of the European Parliament and of the Council on data collection and sharing relating to short-term accomodation rental services and amending Regulation (EU) 2018/1724

Delegations will find attached document SEC(2022) 393 final.

Encl.: SEC(2022) 393 final

EUROPEAN COMMISSION

Brussels, 27.07.2022
SEC(2021) 393 final

REGULATORY SCRUTINY BOARD OPINION

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

{COM(2022) 571 final} - {SWD(2021) 348 final} - {SWD(2021) 349 final}
{SWD(2021) 350 final}

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB/

Opinion

Title: Impact assessment / Short-term rental initiative

Overall 2nd opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

The short-term accommodation rental (STR) sector has evolved and expanded significantly in the EU. STRs can be offered by individual hosts or professional property providers, and exclude hotels and camping grounds. An increasing number of intermediaries, including big international platforms are active in the sector which may create problems for local communities or neighbourhoods, for instance in terms of lack of affordable housing, noise or waste.

In response, some public authorities have introduced rules to manage STR services and defend public interest objectives at the local, regional or national level. STR rules differ across the EU, making it more difficult for cross-border service providers, such as booking platforms.

This impact assessment aims to address these issues.

(B) Summary of findings

The Board notes the more targeted scope and objectives of the initaitve.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

(1) The report does not clearly demonstrate the internal market dimension of the problems.

(2) The report does not sufficiently demonstrate the necessity and value added of EU action.

This opinion concerns a draft impact assessment which may differ from the final version.

(C) What to improve

(1) The report still does not sufficiently demonstrate where the EU needs to act because of internal market problems. It should provide clear concrete evidence that information requests from public authorities result (or are likely to result) in market fragmentation and present an appreciable obstacle to the market entry and expansion of small and medium sized platforms. This assessment should take into account the results from the SME test. It should also recognise that information and data requests from public authorities for public policy purposes often have a regional or local focus, concern specific information and frequencies and thus are different by their very nature. Regarding the costs to platforms when replying to data requests of public authorities, the report should provide further ranges of such estimates to better reflect the differences in scope of such requests (e.g. requests to big platforms covering a whole country vs request to a small platform regarding a specific location or region).

(2) The report still needs to better explain why (local) public authorities are not able to get the data that they need for public policy design. It should explain why (present and future) rules at local, regional or national level are not sufficiently effective and efficient in this regard. It should explain why EU level rules would lead to better compliance of hosts and platforms and better enforcement and sanctioning by public authorities. It should better justify the use of Article 114 to motivate more effective and efficienct information request possibilities for public authorities in absence of a clear link to an established internal market problem. It should better demonstrate the respect of the subsidiarity principle and the proportionality of the preferred legislative policy option.

(3) The report should better explain why the tools available to public authorities under the Digital Services Act are not sufficient to deal with hosts acting in a fraudulent manner. It should also clarify to what extent platforms require in their general contract conditions that their hosts comply with the applicable laws.

(4) The report should clarify under the legislative policy option 2 who would trigger the participation of a Member State in the common registration system (and the obligation to ensure a single digital entry point), in particular whether this would be an autonomous decision of that Member State or whether it would be triggered, if any public authority of that Member State would wish to do so.

(5) Given that platforms did not answer to the question whether they offer their services in their country of residence or cross-border, the report should justify the assumption that many or the majority of platforms intermediating STR services operate cross-border. In particular, it should explore whether this assumption applies to small platforms or only to the bigger ones as if only the latter are concerned, the initiative risks benefitting the established players disproportionately.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

(D) Conclusion **The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.** **If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.**	
Full title	Impact assessment accompanying the document Proposal for a Regulation of the European Parliament and of the Council concerning short-term accommodation rentals
Reference number	PLAN/2021/11047
Submitted to RSB on	23 June 2022
Date of RSB meeting	Written procedure

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

I. Overview of Benefits (total for all provisions) – Preferred Option		
Description	*Amount*	*Comments*
Direct benefits		
Easier and faster registration scheme for hosts (Economic benefits)	Savings for hosts of more than EUR 1480 million (monetisation of time saved in the registration process) for the new hosts that will be starting their activities (hence need to register in those areas) in the first 5 years after implementation (based on baseline number of 2019 and growth rate estimations. Based on the assumption that 87% of the hosts are peers[1] and 13% professional hosts, the cumulative cost savings for citizens over five are estimated at around EUR 1287.6 million.	Adapting/Creating local registration schemes based on a defined EU template will reduce the minimum time (and hence costs) associated with registration for hosts where registration is required.
Streamlined data-sharing framework for platforms across Europe (Economic benefits)	Savings for online platforms over a period of 5 years will amount to between EUR 54 million (based on 800 requests per year) and EUR 115 million (based on 1700 requests per year)	The data-sharing infrastructure will help online platforms to share data, avoiding uncoordinated requests from Public authorities
Reliable data-sharing framework for public authorities with appetite for data across Europe (Economic, Social and Environmental benefits)	Less litigations with platforms to obtain data and knowledge to better address STR activities (Not quantifiable)	The data-sharing infrastructure will secure public authorities with the legal basis and technical tools to request and obtain data from platforms
Indirect benefits		
Predictability of the volumes of tourists for other operators in the tourism ecosystem	(Not quantifiable)	Better transparency will translate in better knowledge and predictability of the segment for touristic operators, which will be more equipped to adapt their offers

[1] Hosts having max 2 listings.

*Administrative cost savings related to the 'one in, one out' approach**		
Structured data sharing process for platforms across Europe (Economic benefits)	Savings for online platforms over a period of 5 years will amount to between EUR 54 million (based on 800 requests per year) and EUR 115 million (based on 1700 requests per year)	The data-sharing infrastructure will help Platforms to share data, avoiding uncoordinated requests from Public authorities
Easier and faster registration scheme for hosts (Economic benefits)	Savings for hosts of more than EUR 1480 million (monetisation of time saved in the registration process) for the new hosts that will be starting their activities (hence need to register in those areas) in the first 5 years after implementation (based on baseline number of 2019 and growth rate estimations. Based on the assumption that 87% of the hosts are peers[2] and 13% professional hosts, the cumulative cost savings for citizens over five are estimated at around EUR 1287.6 million.	

II. Overview of costs – Preferred option							
		Citizens (hosts peers)		**Business (platforms and professional hosts)_**		**Public Administrations (national and local)**	
		One-off	**Recurrent (yearly)**	**One-off**	**Recurrent (yearly)**	**One-off**	**Recurrent (yearly)**
Data-sharing infrastructure	Direct adjustment costs			€			
	Direct administrative costs	EUR 97.44[3] million (registration of current hosts)	EUR 5.96 million (registration costs for new hosts)[4]	EUR 8.2 million for online platform for API connections	EUR 2 million for large platforms for hosting and maintenance EUR 1.6 million for small and	EUR 3 million for national authorities to setup the infrastructure for the registration schemes and develop the national single digital entry	EUR 2.4 million hosting and maintenance for national authorities EUR 4.2 million hosting and maintenanc

[2] Hosts having max 2 listings.
[3] 87% of hosts are peers (citizens). One-off costs for all hosts estimated at EUR 112,4 million
[4] Average annual cost of the cumulative administrative costs for citizens over five are estimated at around EUR 149 million.

					micro platforms that would qualify for more lenient reporting obligations EUR 3.87 for new professional hosts for registration	point EUR 3.6 million for local authorities for IT infrastructure	e for local authorities
	Direct regulatory fees and charges						
	Direct enforcement costs						
	Indirect costs						
Costs related to the 'one in, one out' approach							
	Direct adjustment costs						
	Indirect adjustment costs						
Total	Administrative costs (for offsetting)	EUR 97.44[5] million (registration of current hosts)	EUR 5.96 million (registration costs for new hosts)[6]	EUR 8.2 million for online platform for API connections	EUR 7.47 million [7](cumulative for all type of business stakeholders impacted)	n/a	n/a

[5] 87% of hosts are peers (citizens). One-off costs for all hosts estimated at EUR 112,4 million
[6] This costs will be offset by savings for hosts due to shorter registration estimated at EUR 257.52 million
[7] This cost will be offset by annual costs savings for platforms due to streamlined data requested estimated at EUR 10.8-20.3 million

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: Impact assessment / Short-term rental initiative

Overall opinion: NEGATIVE

(A) Policy context

The short-term accommodation rental (STR) sector has evolved and expanded significantly in the EU. STRs can be offered by individual hosts or professional property providers, including many SMEs, and exclude hotels and camping grounds. An increasing number of intermediaries, including big international platforms, and providers of ancillary services are active in the sector. STR offers opportunities for consumers and providers, but may create problems for local communities or neighbourhoods, for instance lack of affordable housing, noise or waste.

In recent years, some public authorities have introduced rules to manage STR services and defend public interest objectives at the local, regional or national level. However, public authorities do not all have sufficient data to properly design and enforce rules on STRs. STR rules differ across the EU, making it more difficult for cross-border service providers, such as booking platforms to enter the market or scale up.

This impact assessment assesses possible ways to address these issues.

(B) Summary of findings

The Board notes the additional information provided in advance of the meeting and commitments to make changes to the report.

However, the Board gives a negative opinion because the report contains the following significant shortcomings:

(1) The problem definition and its scope are not precisely defined. The report does not provide sufficient evidence to substantiate the problems. It does not demonstrate the scale of the problems. It does not clearly delimit the internal market dimension of the problems.

(2) The report is unclear about the objectives and the intervention logic. It does not adequately explain how to reconcile the objectives of developing the internal STR market and promoting a sustainable tourism sector at the local level. It does not demonstrate the need to act at the EU level.

(3) The report does not sufficiently explore less ambitious and more flexible alternatives focusing on key issues. It does not demonstrate the proportionality of the preferred policy option.

(4) The report does not assess the potential impacts of the initiative on local communities, society and the environment.

(C) What to improve

(1) The report should describe clearly the problems and provide supporting evidence:

- The description of the market should include estimates of the market shares of different market players, including specific segments (e.g. peer vs. professional hosts; hosts in rural areas or small cities vs. tourist centres; operators and intermediaries offering cross-border services vs. local ones, etc.), as well as market boundaries, i.e. whether the STR is a distinct (relevant) market or a broad one including all other alternatives (hotels etc.).
- The problem description should be more precise on streamlining the core problem (data gathering, data standardisation and data access) from other specific problems. It should distinguish the main problems from the consequences (i.e. poor policy design).
- When specific problems are outlined, the report should clearly explain the reasons behind them and which market players or authorities cause specific problems or are affected by them. It should be clear on the scale of the specific problems (e.g. number of disproportionate or challenged STR rules, number of public authorities facing specific data needs), differentiating by Member States, type of region or agglomerate in case of significant variations.
- The report should provide specific information on the problems created by the rapid growth of STRs in certain areas, such as the increase in housing prices, noise, congestion or waste. It should, objectively, describe the specific instances where these problems occur and link them to the problems identified (transparency, burdensome or disproportionate requirements for STRs).
- The report should be more precise on where cross-border problems exist. It should justify why and where the problems of transparency and disproportionality of requirements on STRs have a single-market dimension. The discussion on the occurrence of cross-border problems should clearly distinguish between offering STR services to clients from different countries and offering STRs located in different countries. The report should also provide reliable estimates of the incidence of these types of services.
- The report should consider other factors hampering the cross-border expansion of STRs companies, beyond the proliferation of rules and assess their relative importance.
- The report should explain why public authorities are not able to get the data that they need, even though the problem description considers that the frequent and diverse data requests by public authorities are a problem. It should estimate the frequency of this problem. It should clarify which types of data are needed by which authorities for policy development and policy enforcement.

- The report should explain why there is a need for a specific STR initiative, given that STR services are subject to the Services Directive.

(2) The report should specify the scope of the initiative. It should explain whether it focuses on specific segments such as cross-border STRs, intermediaries, professional hosts or SMEs or on mitigating the social and societal impacts on local communities. If the initiative addresses the STR sector in general, the report would have to show that the problems described affect the whole STR sector, and explain how the different actors will benefit from the initiative.

(3) The report should explain how the different objectives would be reconciled within the initiative. It should acknowledge potential trade-offs between facilitating the expansion of the STR sector and the aim to help remove the negative effects of STR growth on some local communities.

(4) The intervention logic should be strengthened. To this end, the problem definition, the description of the policy options and the analysis of potential impacts should be more coherent. The report should clarify how it addresses all the objectives of the initiative.

(5) The report should demonstrate with evidence where the EU needs to act because of internal market problems. The report should explore less ambitious and more proportionate alternatives focusing on the key issues identified and clearly substantiated with robust evidence. It should consider the possibility of combining targeted legal obligations on certain market players (e.g. big platforms) with softer instruments such as a Recommendation based on existing experience and case law. Given the potential differences in the relevance of the problems in Member States, the report should pay more attention to voluntary, gradual and opt-in approaches while avoiding disproportionate conditions.

(6) The report should elaborate the content of the policy options. In particular, it should explain which criteria will be used to assess the proportionality of the requirements on STRs and where they will be defined. The report should present additional sub-options, since there may be alternative policy choices as regards certain elements of the policy options, such as the criteria to assess proportionality or the type of market players affected. The options should describe how compliance would be monitored and enforced.

(7) The options should consider appropriate mitigation measures for all types of SMEs active in the market, not only for small platforms.

(8) The report should further develop the impact analysis. It should assess the potential impacts of the initiative on local communities, society and the environment. Even if the final impact on local communities cannot be quantified – because it depends on action at local level, the report should elaborate on the expected effects of actions at local level, which will be triggered by the initiative. The impact analysis should also present a more complete overview of the expected effects on the different types of market participants, including the more traditional local ones.

(9) The report should clearly demonstrate the respect of the subsidiarity principle and the proportionality of the preferred policy option, including the choice of a regulation as the preferred policy delivery instrument. It should justify why the most stringent options, which impose obligations for all actors across the whole EU, score better than more targeted options that only impose costs where these are needed. The comparison of options should be improved and clearly linked to the findings of the analysis.

(10) The report should present the views of different stakeholder groups as regards the problems and possible policy solutions, including consumers, (associations of) citizens

affected by STRs or NGOs. Given the low number of citizens responding to the public consultation and the sensitivity of this issue in certain areas, the report should complement the information from the public consultation with other sources.

(11) The report should explain how the initiative would affect the existing reporting by the STR sector under the Directive on administrative cooperation in the field of taxation (DAC7).

(12) The standard tables on costs and benefits in annex should present a more comprehensive overview, in particular on compliance costs for citizens and businesses.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings and resubmit it for a final RSB opinion.

Full title	Impact assessment accompanying the document Proposal for a Regulation of the European Parliament and of the Council concerning short-term accommodation rentals
Reference number	PLAN/2021/11047
Submitted to RSB on	19 January 2022
Date of RSB meeting	16 February 2022