Position paper on fitness check on EU consumer law

17 February 2023

HOTREC, the voice of the hospitality industry in Europe, welcomes the opportunity to provide feedback on the fitness check on EU consumer law. We strongly believe that the upcoming review should ensure that any possible new rules do not overburden SMEs and introduce measures that will address remaining online practices harming consumers.

The digitalisation of the hospitality sector offers many opportunities. On one side it enhances consumer choice while on the other it allows businesses to scale up their operations and reach consumers easily. Nevertheless, digitalisation also enabled many business practices and patterns that are negatively impacting consumers and hospitality businesses, of which the majority of them are SMEs and microenterprises.

In 2019, HOTREC strongly welcomed the latest modernisation of EU consumer law and especially the changes introduced to the Unfair Commercial Practices Directive (UCPD) and Consumer Rights Directive (CRD). The current review offers an ideal opportunity to address remaining shortcomings, especially in light of new practices that emerged during the Covid-19 crisis and the increasing influence of online marketplaces.

Responsibilities and transparency of online marketplaces

- **Ranking parameters on online marketplaces** - While the 2019 update of the consumer law introduced important changes to improve the transparency of ranking parameters on online marketplaces, further adoptions should be introduced to better understand the relative importance of individual parameters.

- **Rules for smaller online marketplaces** – more attention and effort should be put into ensuring that basic rules envisaged for online marketplaces are applied by all platforms regardless of their size. This will ensure that smaller and less visible platforms also tackle non-compliant practices.

- **Hotel star rankings** - In the hospitality sector, many establishments are assigned official classifications which reflect quality or standing and are based on clear and objective criteria (e.g. Hotelstars classification systems for the hotel sector, similar quality schemes, etc). Consumers are well aware of these systems which can represent an important factor in their decisions to purchase services or goods. It can be observed that some online marketplaces do not inform consumers of official classification systems and rather use "non-official" (but similar) systems. This can lead to situations where a consumer wrongly assumes that star systems used by online marketplaces are the same as the ones assigned by official classification systems.

Dark kitchens

Since COVID-19, we witnessed the proliferation of business models operating under the umbrella of a shared hidden kitchen and a central ordering centre where 100% of the food assembled is delivered. This concept, originally from Asia, is dominating the Chinese market as well as the US. This emerging

practice can harm consumers and neighbouring communities including traditional food business operators. We highlight a few potential consequences below:

- **Health and safety hazards**: these hidden kitchens also referred to as 'dark kitchens' lack visibility and are likely to hamper HACPP principles (EU regulation on hygiene of foodstuffs No 852/2004) and requirements mandatory for restaurants and the food services sectors. Consumers might consequently be affected as well as staff working in these kitchens. Evidence shows that hidden kitchens create noise and pollution from vehicles delivering food to clients which have negative consequences for neighbouring inhabitants and shops.

- **Social protection of staff is at stake**: These hidden kitchen environments are favourable to undeclared work, weakened social protection and unhealthy working environment, e.g. lack of ventilating fans in kitchens. If there is no contract, payment disruptions might also take place, without the possibility for the employee to contest. Training opportunities of staff in these places where food is often only assembled and not designed and cooked with passion can be significantly affected.

- **Unfair competition**: these operating kitchens often fail to comply with regulations targeting traditional restaurants. Additionally, it should be noted that few online platforms dominate the delivery market. Unfair competition could lead to traditional and local restaurants – mostly micro-enterprises and SMEs – closing, leading to a reduced offer for consumers.

- **Environment and climate harm:** Hidden kitchens lead to a high generation of packaging due to a model based 100% on delivery (and failed to comply with most regulations targeting traditional restaurants).