

PROFORMA FOR AGE CONSULTATION RESPONSES

The consultation closes on 25 May 2011. Please let us have your response by that date.

When responding, it would be helpful if you could provide the following information.

Please fill in your name and address, or that of your organisation if relevant. You may withhold this information if you wish, but we will be unable to add your details to our database for future consultation exercises.

Contact details:

Please supply details of who has completed this response.

Response completed by (name):

Position in organisation (if appropriate):

Name of organisation (if appropriate):

Address:

Contact phone number:

Contact e-mail address:

Date:

Confidentiality

Under the Code of Practice on Open Government, any response will be made available to the public on request, unless respondents indicate that they wish their views to remain confidential. If you wish your response to remain confidential, please tick this box and say why. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

I would like my response to remain confidential (please tick if appropriate):

Please say why

You or your organisation

Q(i) In what capacity are you responding?

As an individual (if so, please go to Q1 in the main comments section)

On behalf of an organisation (if so, please go to Q(ii) below)

As an employer (if so, please go to Q(iii) below)

Other (please specify)

Q(ii) Is your organisation

(please tick the boxes that apply to your organisation)

A local authority (including health authority) / organisation

An equality lobby group or body

A statutory body

An organisation representing employers

An organisation representing financial institutions

A professional association

A university

A college of further education

A trade union/staff association

Other – please specify

Trade Association representing the Tourism Industry
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Q(iii) If responding as an employer, how many people do you employ?

Between 1 and 14 employees

Between 15 and 49 employees

Between 50 and 249 employees

250 employees or more

Q(iv) If responding as an employer please indicate which sector best describes you:

Legal services

Construction and/or building design

Communications

Wholesale and retail trade

Leisure – hotels, restaurants, pubs

Leisure – cinemas, theatres, museums	<input type="checkbox"/>
Leisure – other	<input type="checkbox"/>
Distribution/transport	<input type="checkbox"/>
Financial and/or business services	<input type="checkbox"/>
Electricity, gas and water supply	<input type="checkbox"/>
Advice and/or information services	<input type="checkbox"/>
Public administration	<input type="checkbox"/>
Education/training	<input type="checkbox"/>
Health and social work	<input type="checkbox"/>
Charity/voluntary work	<input type="checkbox"/>
Other (please tick box and specify)	<input type="checkbox"/> <div style="border: 1px solid black; width: 200px; height: 40px; display: inline-block; vertical-align: middle;"></div>

Note:

- In addition to the completed proforma, you can also send other supporting information if you so wish.

Completed forms should be e-mailed to the following address:-

age@geo.gsi.gov.uk

If you are posting the form please send to:-

Age Discrimination Consultation Responses
C/O Mark Reed
Government Equalities Office
Zone J10, 9th Floor Eland House
Bressenden Place
London SW1E 5DU

Thank you for completing this response form.

Introduction

The Tourism Alliance was established in 2001 as the voice of the UK tourism industry. It now comprises 50 tourism industry trade and marketing associations that together represent some 200,000 business of all sizes throughout the UK (see Appendix 1 for membership list). The Tourism Alliance's mandate is to work with government on issues relevant to the growth and development of tourism and its contribution to the economy. It is therefore responding to this consultation in that capacity.

Britain's tourism industry has been one of the largest and fastest growing sectors of the British economy over the past 20 years and is now worth £115bn and accounts for over 8% of the UK workforce. Importantly, in addition to the revenue and associated employment benefits, tourism delivers a wide range of social benefits that support the Government's social inclusion agenda.

The tourism industry is rightly proud of its record on equality in employment. The flexibility of tourism jobs allows businesses to employ a wide range of groups who would otherwise be excluded from the labour market. Labour Force Survey data continually shows that the tourism and hospitality sector employs more school leavers than any other sector, more "DDA disabled and work limiting disabled" people work in tourism than any other sector and it employs the greatest number of part time workers, thereby providing the employment opportunities needed by groups such as solo parents.

We also believe that UK tourism industry's record on equality in the provision of goods and services is second to none. The reason for this is that the fundamental purpose of the industry is to provide holidays in Britain for people of all different races, religions, ages, sexual orientations and physical abilities from all over the world. That we are the fifth most popular global travel destination, visited by over 30m people per annum from every imaginable market (not to mention 120m domestic visits each year), is evidence of the industry's ability and willingness to cater to all people.

The way that the UK tourism industry is able to cater for people of all backgrounds from across the globe is through the process of market segmentation. Market segmentation is aimed at providing products are specifically suited to the differing requirements and tastes of different people. The better that we are able to identify different market segments and provide products uniquely suited to them, the more the tourism industry will grow. There is even tacit agreement from Government that market segmentation on the basis of protected characteristics is acceptable – the Government's national tourism bodies regularly undertake gay and lesbian marketing campaigns while the Government's new Tourism Policy asks for the industry to provide more products and services aimed at the family market and that will attract specific races (Chinese and Indian) to visit and stay in the UK.

Before commenting on the specific proposals, it is also worth noting a separate important issue that needs to be taken into consideration in the development of this legislation. That is the fact that 80% of businesses in the tourism industry are SMEs, a large percentage of which provide accommodation such as B&Bs, self-catering cottages and small guesthouses. Of these businesses, a large number are operated by families who are taking guests into their own homes. For these people, there is the important issue of their safety, and that of their family, that the Government Equality Office needs to be taken into consideration. At the moment, these people are able to turn away bookings that are inappropriate because they represent too much of a risk to their safety, can cause significant damage to their home or pose a risk of significantly disturbing other guests (whose safety and well-being the operator is responsible for). These groups are almost invariably groups of young people on outings such as hen, stag and graduation parties (ie., people that they know will become very drunk staying in their homes). Accommodation providers are well aware of this and vet bookings accordingly to minimise risks to themselves, their families and their properties.

However, under the current proposals, this will not be possible for two reasons.

First, although an exemption is proposed for businesses where there is objective justification, we believe that the level of proof that will be required is beyond the ability of SMEs to provide. While there is overwhelming evidence available from the Home Office that directly links young people with binge drinking and antisocial behaviour, statistics on antisocial behaviour in small accommodation businesses is simply not collected. As such, demonstrating objective justification for declining a booking for stag night will be virtually impossible even though everyone knows there is a significant risk.

To compound the problem, at the European level, we are currently seeing a situation where the car insurance industry, with the very high quality data that they have on the link between age/sex and car accidents, is being told that is not justifiable to link premiums to age. If it is not possible for the car insurance industry to claim objective justification then, in practical terms, this exemption simply does not exist.

The second problem is that of indirect discrimination, whereby it is not possible for a business to have a policy that indirectly discriminates against a group with a protected characteristic. So an accommodation provider cannot have a policy of only catering for married couples because gay people are not able to get married. Similarly, if an accommodation provider has a policy of "no spring break groups" as the consultation document claims will still be legal, there is the prospect of being charged with indirect discrimination on the basis of age because most people on spring breaks are young people.

Question 9: Does exception 4 (age related holidays) in the proposed draft Order in Annex 1 adequately achieve the policy intent described in paragraphs 7.10 – 7.14? If not, or you are not sure, please explain why.

Please place a cross in the appropriate box

Yes No Not
sure

The Tourism Alliance is pleased that the Government Equality Office has recognised in the consultation document that market segmentation on the basis of age is a legitimate practise in the tourism industry - providing benefits for the targeted segment while, at the same time, the size of the industry means that the ability of non-targeted segments to purchase a similar product is not restricted.

However, there are a number of significant problems associated with trying to argue that it is legitimate for some tourism businesses to undertake age-related market segmentation but it is not legitimate for other businesses to do the same thing.

The first major problem is that, under the current proposal it will be illegal for hotel operators and coach operators to sell rooms or seats to customers on the basis of age. However, it will be legal for a third party to on-sell the same rooms and the same coach seats to the same customers on the basis of age. This is obviously illogical and significantly distorts the market by providing the third party with an unfair competitive advantage over the hotel and coach operators.

The second major problem is in attempting to use the Package Travel Directive to define when age-related market segmentation can be undertaken. This approach is severely flawed for two important reasons. This first is that this Directive, and the associated UK regulations, define a package as being a product that combines two of the three following components – accommodation, transport, other tourism activity. If this definition is used, a country hotel with a golf course will not be permitted to sell a room on the basis of age, but it will be able to sell a room with a round of golf on the basis of age. Again, this is an absurd situation.

The second reason that using the EU definition of a package will not work is that the EU is currently developing proposals to extend the definition of a “package” in the Package Travel Directive so that it incorporates what is known as “dynamic packaging”. Dynamic packaging occurs when a customer puts together their own package of services. Very obvious examples of this are sites such Expedia which provide a range of flights, hotels and other products for the customer to choose from. However, dynamic packaging occurs in much wider range of situations and can apply where a company simply provides a link on their website to the website of another

business that they have a commercial relationship with. Using the country hotel example, if the golf course is a separate business that provides hotel customers with a discounted rate which the hotel advertises on its website with a link, this is dynamic packaging. As a consequence, using the EU definition of “package” will result in the bizarre situation where individual customers actually determine through their purchasing actions as to whether what is being sold to them can be sold on the basis of age.

As you can easily see, the approach that is being proposed is fraught with difficulties. It will also distort the market, create significant confusion for both customers and businesses and no doubt generate a considerable numbers of legal test cases as businesses try to determine whether their activities comply with the legislation.

It is worth noting that in generating these problems (and their associated costs to both businesses and customers), not a single piece of evidence has been presented in the consultation document to show that there is any existing problem in the tourism sector that legislation is needed to rectify. Indeed, the only evidence that has been presented in the consultation document shows that current age-related market segmentation practices within the tourism industry are actually demanded by, and beneficial to, the customers !

In addition to the problems associated with practicality and evidence, it is important to look at this proposal from the wider national perspective.

At the beginning of the year, the Government launched a Growth Strategy in which it identified tourism as one of five industries that it is targeting to provide the economic growth and employment needed to boost the UK economy. As part of its plans to support the industry so that it can help rebuild the UK economy, the Government recently launched a new Tourism Policy containing challenging growth targets for the sector and a series of major initiatives aimed at reducing burdens on the sector so that these targets can be achieved.

One of the main Government initiatives outlined in this Policy is to reduce regulatory burden on the tourism sector. The Government has set out to achieve this through establishing a Regulation Taskforce for the industry, appointing Alan Parker CBE as a “Regulation Tzar” for tourism and specifically targeting tourism regulation in the Red Tape Challenge.

At a time when Government policy is firmly directed towards reducing unnecessary regulatory burden on the tourism industry so that it can support the UK economy, it seems incongruous that the Government Equalities Offices is proposing increasing the regulatory burden on the industry without any evidence of there either being a problem to resolve or a benefit to be derived. Indeed, the only evidence is that there will be a disbenefit to both the customer and the business operator.

In light of the significant problems associated with the proposals and Government policy with regard to tourism, the Tourism Alliance requests that proposals for preventing age-related market segmentation in the tourism industry be dropped until

such time as evidence can be provided that there is a need for such legislation. When the need for legislation has been properly identified, then legislation can be developed that is properly targeted and fit for purpose.

Yours sincerely



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Chairman

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Tourism Alliance Membership

Association for Tourism in Higher Education
ABTA – The Travel Association
Association of Leading Visitor Attractions
Bed and Breakfast Association
British Association of Leisure Parks, Piers & Attractions
British Beer & Pub Association
British Educational Travel Association
British Hospitality Association
British Holiday & Home Parks Association
British Marine Federation
British Resorts and Destinations Association
Business In Sport and Leisure
Business Visits and Events Partnership
Camping and Caravanning Club
Confederation of British Industry
Confederation of Passenger Transport UK
Country Land and Business Association
Cumbria Tourism
Destination Performance UK
East of England Tourism
English Association of Self Catering Operators
English UK
European Tour Operators Association
Events Industry Alliance
Guild of Registered Tourist Guides
Heart of England Tourist Board
Heritage Railway Association
Historic Houses Association
Historic Royal Palaces
Holiday Centres Association
Hoseasons
Merseyside Partnership
National Caravan Council
National Trust
New Forest Tourism
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Tourism Network North East
Tourism Society
Tourism South East
UKinbound
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Welcome to Yorkshire

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SouthWest RDA (representing the RDAs in England)

VisitBritain

VisitEngland