

INCEPTION IMPACT ASSESSMENT

Inception Impact Assessments aim to inform citizens and stakeholders about the Commission's plans in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options.

TITLE OF THE INITIATIVE	Short-term rental initiative
LEAD DG (RESPONSIBLE UNIT)	DG GROW G.3
LIKELY TYPE OF INITIATIVE	Legislative
INDICATIVE PLANNING	Q1 2022
ADDITIONAL INFORMATION	Collaborative economy Internal Market, Industry, Entrepreneurship and SMEs (europa.eu) / Tourism Internal Market, Industry, Entrepreneurship and SMEs (europa.eu)

The Inception Impact Assessment is provided for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the Inception impact assessment, including its timing, are subject to change.

A. Context, Problem definition and Subsidiarity Check

Context

Short-term accommodation rental ('STR') services are an important part of the EU tourism ecosystem. The STR segment accounts for over 23% of the tourist accommodation sector and is growing rapidly. Whilst initially taking place in a peer-to-peer environment only, STRs now include a growing number of professional providers. In addition to providing extra income for citizens, it creates job opportunities and involves companies – mainly SMEs – who provide a variety of services (such as e.g., management and maintenance, advertising, etc.). The STR segment caters for the needs of domestic and international travellers and tourists and several players (notably platforms) operate in several Member States (with a handful operating at a global level). STRs have been particularly resilient during the COVID crisis (by for example helping shift demand from tourism hotspots to less well-known destinations). STRs are therefore key to support the recovery and economic development of the tourism ecosystem. At the same time, the rapid growth of STRs has given rise to a number of concerns. Local communities have been particularly concerned about pressure on the affordable local housing market and sustainable development of cities, including urban planning. In addition, a number of concerns have been raised about compliance with applicable rules, such as e.g. health and safety requirements. STR market players, for their part, have repeatedly raised the existence of obstacles deriving from fragmented, burdensome and restrictive rules.

In its [2016 Communication on the Collaborative Economy](#), the Commission provided guidance on the application of EU law to the collaborative economy¹ and recommendations to promote the balanced and sustainable development of this sector in the EU. Judgments of the EU Court of Justice, while broadly confirming the Commission's approach, have offered additional clarifications². The Commission worked intensively with Member

¹ Accommodation rental is the largest collaborative economy sector.

² See Joint Cases C-724/18 and C-727/18 'Cali Apartments' and C-390/18 'Airbnb Ireland'.

States and stakeholders to develop policy principles and good practices specific to the short-term accommodation sector³, as well as with key online platforms to ensure that better data is available for this sector. In December 2020, the proposal for the Digital Services Act set out horizontal rules for all online platforms, including those operating in the STR sector.

However, these developments have not been able to address all problems in this sector, where litigation remains frequent both at national and EU level. In its [Conclusions](#) adopted on 27 May 2019, the Council called for more clarity regarding the rules applicable to the STR sector⁴. A recent European Parliament [report](#) calls upon the Commission to act in the area of STRs.

In its [SME Strategy of March 2020](#), the Commission announced a possible initiative on STRs. In line with its [Industry Strategy Update](#), the Commission is currently working with stakeholders on a pathway to bring the tourism ecosystem back on track and make it more digital, sustainable and resilient⁵.

Problem the initiative aims to tackle

STR is a fast-growing sector that creates opportunities for businesses, in particular SMEs, and citizens, and the responsible development of this new business model should be supported. There are, however, two main problems that have emerged that hinder progress towards achieving this aim:

- In order to **design and enforce appropriate rules** on STRs and to facilitate the operation and growth of SMEs while **promoting public interest objectives**, such as ensuring the availability of affordable housing, or securing compliance with health and safety rules, public authorities lack the relevant **data** (e.g. who rents what and how often), and information tools. Online platforms often have such data but they do not share them on a systematic and consistent basis with public authorities (amongst others because of uncertainty regarding the applicable rules, lack of consistent and systematic requests from public authorities and privacy concerns). To address this issue, some Member States have taken steps to create more transparency, by e.g. introducing registration schemes for hosts and obligations on platforms to display their registration number in listings. However, such measures have not been consistently enacted in all Member States, they diverge in scope and, in some occasions, have proven to be not effective. Recent data sharing initiatives such as the Eurostat statistics on STRs⁶ helped providing useful data but do not appear to have fully addressed the problem.
- Across the EU, STR market players are subject to a **wide variety of regulatory** and often **burdensome requirements**, often adopted at local level, which can create **market access barriers** and make it more difficult to provide STR services, in particular for SMEs. This situation creates uncertainty as to how EU, national and local laws apply to STRs. STR market players are increasingly subject to multiple and fragmented obligations, which affect the operation of their services and their potential to grow and scale-up at EU level. In certain cities hosts may be faced with restrictions or total ban on new STR activities or to several local registration or authorisation schemes. In addition, STR rules do not always differentiate between hosts offering STR services on a purely occasional basis and those doing so in a more professional capacity. This may result in a lack of **level playing field** situation wherein providers of similar accommodation services (i.e. hosts renting in a more professional capacity and other accommodation providers, such as hotels) are treated in a different manner, while hosts offering STR services on a purely occasional basis may be faced with the same regulatory requirements that apply to professional hosts.

Basis for EU intervention (legal basis and subsidiarity check)

The most likely legal basis would be Article 114 of the Treaty on the Functioning of the European Union (TFEU), which enables EU initiatives to improve the conditions for the functioning of the internal market, by approximating Member State laws, in this case for achieving the objectives set out in Article 26 TFEU concerning the services sector, where there are differences between national rules that obstruct the fundamental freedoms and have a direct effect on the functioning of the internal market.

Avoiding the regulatory fragmentation of rules for STR services and improving its functioning can only be achieved at EU level. In the absence of an EU intervention, regulatory fragmentation will continue and is expected to further increase, particularly as the majority of existing rules are made at local level, which could further aggravate the above identified problems. Hosts, online platforms and all STR market players, which include many SMEs, will be

³ See <https://ec.europa.eu/docsroom/documents/32062>. Short-term rentals are defined as Holiday and other short-stay accommodation within the meaning of the NACE classification 55.2. See: Glossary: Holiday and other short-stay accommodation - Statistics Explained (europa.eu)

⁴ Council Conclusions on the competitiveness of the tourism sector as a driver for sustainable growth, jobs and social cohesion in the EU for the next decade, 27 May 2019, 9707/19.

⁵ See Commission Staff working Document, SWD (2021) 164 final.

⁶ [short-stay accommodation booked via collaborative economy \(europa.eu\)](#)

faced with increasingly different rules at national, regional or even local level leading to a complex compliance framework and higher costs; and the lack of legal clarity will impede their cross-border provision of services and economic growth. Action at EU level would ensure a common approach while allowing for respect for local circumstances and local specificities to be taken into account in line with recent case law⁷.

This initiative concerns only the provision of STR services in the EU and not areas that fall under the competence of local authorities, including, in particular, urban planning rules and zoning requirements for particular uses.

This initiative will complement and be in compliance with the principles enshrined in recent initiatives in the platform economy of a horizontal nature, such as the proposals for the Digital Services Act, the Digital Markets Act and the Data Act, and the recently adopted Directive on Administrative Co-operation between Taxation Authorities.

B. Objectives and Policy options

The main policy objective is to **facilitate the development of a responsible, fair and trusted single market for STRs services**, as part of a balanced and sustainable tourism ecosystem.

As a baseline scenario, the Commission could continue to offer guidance on the application of existing EU law and work on the development of best practices. While the existing approach has had some success in promoting the introduction of Member States' policies in compliance with EU law, it has not prevented regulatory fragmentation, nor has it resolved remaining uncertainty. Without consistent access to data on STR, public authorities will continue to find it difficult to design justified, effective and proportionate policy responses and enforce the rules. The challenges will increase as the STR activity still continues to grow across the EU. The large number of litigation over newly introduced Member State regulations indicates the limits of the existing policy approach. Moreover, guidance would be limited to the clarification of existing rules, and is by definition not binding.

This initiative would aim at ensuring that clear and simple rules are in place for STRs across the EU while supporting public authorities in defending public interest objectives.

It would consider the following targeted measures to achieve these objectives:

(i) Access of public authorities to data on STRs

Public authorities need data to understand the development of the STR sector, and be able to enact and enforce rules governing it. The initiative would assess first which type of data are relevant and necessary for public authorities (e.g. data on who rents out what and how often). Second, the initiative would assess the different means to generate and ensure a proper access to such data, in compliance with data protection legislation. For instance, it will explore the added value of registration obligations, as well as several data sharing options and/or transparency requirements between platforms and public authorities. In this regard, it could consider measures to avoid undue burden on smaller or start-up platforms. It could also consider the development of technical tools to facilitate data sharing, such as the development of an application programming interface (API). In addition, the initiative will assess whether the use of a common registration scheme would address the data needs while limiting the burden on market players. The role platforms can play to facilitate the work of public authorities will be also assessed.

(ii) Market access conditions for STR players and level playing field

STR market players (e.g. hosts, management and maintenance service providers and online platforms) should benefit from clear market access conditions across the EU. To this end, the initiative could clarify and streamline the rules and requirements public authorities can impose on hosts and online platforms. The aim would be to offer legal certainty to authorities and market players, but also to guarantee effective market access and remove unnecessary market access barriers. In setting those rules, attention could be given to the type of provider as a means of ensuring level playing field conditions. For instance, to ensure the proportionality of STR requirements, the initiative could explore the possibility and the ways to differentiate between hosts renting out occasionally, and those renting out in a more professional capacity. It could also specify the rules public authorities should respect when deciding to subject the provision of STR services to registration and authorisation requirements or other conditions, to ensure that such rules respect the Single Market principles (i.e. justification, proportionality and non-discrimination), and as such are not overly-restrictive or burdensome and fully respect the principle of subsidiarity, for example in relation to urban planning rules.

⁷ Joint Cases C-724/18 and C-727/18 'Cali Apartments'.

<p>The aforementioned measures could be implemented through various tools (e.g. Guidance, Code of Conduct, legislative initiative, possibly combined with the development of technical tools). The advantages and drawbacks of each of the measures and tools will be assessed in the impact assessment.</p>
<p>C. Preliminary Assessment of Expected Impacts</p>
<p>The impact assessment will assess, for each option, the following types of likely impacts:</p>
<p>Likely economic impacts</p>
<p>The measures set out above will benefit a wide variety of players of the tourism ecosystem, which is composed of more than 95% of SMEs. Overall, STR hosts, intermediaries for ancillary services, and online platforms stand to gain from converging or proportionate policy interventions at local level, and from clarity on requirements that can be imposed on service providers (e.g. registration, authorisation). Public authorities will also benefit from more transparency and legal clarity on what they can and cannot do when imposing registration and authorisation requirements or restrictions, in line with EU law, while respecting the right of Member States' national and local authorities to regulate in the public interest.</p> <p>Overcoming fragmentation will also create favourable conditions for the cross-border offer and expansion of more online STR platforms, especially the smaller ones which are currently deterred by the existing fragmentation, which would be able to create a more competitive environment in a market segment where few big players appear to dominate. Increased competition in the intermediation market could then result in lower fees for the hosts offering properties for rental. This would render their activity more profitable and would stimulate further interest in STR and potential new hosts or business models to enter the market in some areas. This could also lead to lower prices for end customers.</p> <p>The costs of complying with new obligations are expected to be at least partly offset by the reduction of the current costs deriving from the existing fragmentation. In any event, the initiative will pay particular attention that such costs are proportionate and limited to the minimum, in particular for the smaller players. Solutions to mitigate this impact, in particular on SMEs, will be assessed.</p>
<p>Likely social impacts</p>
<p>The initiative will improve the regulatory framework for the STR sector and promote the balanced and responsible development of the collaborative economy across the Single Market in full respect of public interests. More specifically, this initiative will support local and public authorities in enforcing the existing rules and developing proportionate and more informed policies in order to protect citizens and promote public interest objectives including the protection of the urban environment, the availability and affordability of housing. Adequate policies could support shifting demand from tourism hotspots to lesser-known destinations, contributing to a more sustainable tourism ecosystem, whilst creating jobs and generating extra income for citizens. Clearer and less fragmented rules as well as greater access to data could also foster the development of alternative online platforms and business models, offering more choice for consumers and hosts.</p>
<p>Likely environmental impacts</p>
<p>STR could have an increasingly important impact on the flow of tourists to a certain region or city, and consequently on the potential environmental challenges that intensive tourism can bring, such as: increased carbon emissions and pollution, pressure on local energy and water resources, a higher volume of waste. Local communities and public authorities need to be better empowered to manage the development of tourism in their area. By facilitating the gathering of data and information concerning STR, the initiative will help public authorities better enforce existing rules, aiming at controlling the development of STR in given cities or neighbourhoods, as well as design effective and proportionate policies for more sustainable tourism. For the sustainability of tourism, STR appears to be a valuable business model, given that its flexible nature allows for a more balanced distribution of tourism, including to lesser-known areas, without significant investments being required. However, increasing tourism flows in lesser-known areas could have a negative environmental impact on these areas.</p>
<p>Likely impacts on fundamental rights</p>
<p>Since several elements of this initiative relate to the processing and transmission of personal data, the chosen policy option will need to be fully compliant with data protection legislation. The measures aim at updating the current legal framework to support the balanced and sustainable development of the collaborative economy, in full respect of public interest objectives, including the availability of affordable housing. In addition, by clarifying the applicable legal framework for both peers and professional services providers, the initiative may have a positive</p>

impact on property rights and the right to conduct a business.
Likely impacts on simplification and/or administrative burden
<p>The improved EU framework will streamline and harmonise a patchwork of existing rules and reduce the proliferation of new rules (e.g. the possibility to restrict the STR activity will be limited and guided). A simple and clear set of uniform rules across the EU is expected to benefit most economic operators, in particular hosts, management and maintenance providers and online platforms, reducing legal and regulatory fragmentation, while also facilitating compliance with the rules by all actors involved and supporting authorities in enforcing legislation, including through the use of modern digital technologies.</p> <p>Existing registration and authorisation schemes already create some administrative burden for the actors involved (public authorities, hosts, platforms). The initiative will ensure that such schemes are simpler and clearer in the future, in order to reduce this administrative burden. The impact of the initiative on existing rules and schemes would need to be assessed and clarified.</p> <p>Possible administrative burden that may result from this initiative will be assessed with other costs of the policy options considered for different stakeholders, including hosts, service providers (SMEs) and citizens, regulators, policy makers and platforms. It is also expected that trade-offs between administrative burdens for certain operators and benefits in terms of protection of local communities exist and will be taken into account in the analysis. In addition, measures will be considered to help smaller players to comply and local authorities to implement the rules.</p>
D. Evidence Base, Data collection and Better Regulation Instruments
Impact assessment
<p>An impact assessment will be prepared on the basis of available and forthcoming studies. It will be supported by stakeholder consultation activities. The impact assessment will also benefit from substantial consultation actions and a series of initiatives and dialogues started in 2016.</p>
Evidence base and data collection
<p>Existing and forthcoming studies and other data available inside and outside the Commission will be used.</p> <p>A non-exhaustive list of evidence on STR services has been collected/will be collected, including but not limited to:</p> <ul style="list-style-type: none"> • two Flash Eurobarometer surveys in 2016 and 2018; a third Flash Eurobarometer focusing on STRs is forthcoming (results expected for Q3 2021); • a comprehensive study mapping Member States' regulations of collaborative short-term accommodation services (2018); • an economic study assessing the link between the growth of collaborative short-term accommodation services and the availability of affordable local housing and the urban environment in Amsterdam (2020)⁸; • a series of three workshops with cities to understand the approach to and regulation of short-term rentals and the views of local stakeholders (2020-2021); • a study identifying and assessing options to differentiate between peers and regular / professional services providers, as well as options for registration schemes for services providers (ongoing; final results expected Q3 2021); • a study from the JRC on "Scoping the Sharing Economy: Origins, Definitions, Impact and Regulatory Issues"⁹. <p>Costs and benefits of the baseline scenario and the policy options will be mapped. The identified costs and benefits, as well as the impact on administrative burden, will be quantified to the extent possible, based on data and information collected through desk research and consultation activities with the interested stakeholders. The most significant environmental, social, and economic impacts of the considered options as well as possible</p>

⁸ Jeroen van Haaren, Susan Vermeulen, Jeroen Klijs, Ko Koens, Jorrit Bijl (forthcoming 2021) "Short-term accommodation rental in Amsterdam: An empirical investigation of statistical correlations between short-term rental, housing prices and quality of life index".

⁹ Cristiano Codagnone and Bertin Martens (2016). "Scoping the Sharing Economy: Origins, Definitions, Impact and Regulatory Issues". Institute for Prospective Technological Studies Digital Economy Working Paper 2016/01. JRC100369. The Commission will also collect and assess the findings included in other research papers (e.g., the Harvard Business Review Research: "When Airbnb Listings in a City Increase, So Do Rent Prices" by Kyle Barron, Edward Kung, and Davide Proserpio).

implications for fundamental rights will be assessed and compared.
Consultation of citizens and stakeholders
<p>Following the adoption of the Commission Communication on the collaborative economy in June 2016, a series of workshops with Member State authorities and stakeholders were organised in 2017 and 2018. This led to the identification of policy principles and good practices specific to the short-term accommodation sector, published at the occasion of a Commission conference on the matter in October 2018¹⁰. In preparation of this document, a stakeholder consultation took place. Since 2018, several meetings and workshops were organised with EU cities and local stakeholders to discuss existing and possible future regulation of the STR sector as well as the implications of existing EU law.</p> <p>The consultation strategy for this initiative includes:</p> <ul style="list-style-type: none"> • the present Inception Impact Assessment, open for four weeks for public feedback; and • a public consultation of all stakeholders, focusing on concrete options for the future. Replies will be possible in all 23 EU languages. <p>Further targeted consultation activities with stakeholders to discuss aspects of the main policy options in more detail and events (workshops or conferences) to complement the consultation process will be considered. Stakeholders that will be consulted include, but are not limited to, economic actors and their professional associations (e.g., platforms, accommodation providers), competent national and/or local authorities, consumers and local communities (e.g., neighbourhood associations).</p> <p>The main communication channels will be the Commission's central public consultations page and Have Your Say. A synopsis report with the results of all consultation activities will be published on the consultation page of the Commission. A factual summary will be presented after the public consultation is closed.</p>
Will an Implementation plan be established?
Pending further analysis of the policy options, an implementation plan could be developed.

¹⁰ <https://ec.europa.eu/docsroom/documents/32062>.