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Understanding and Negotiating Leisure Sales Agreements

I. Introduction

A. Definition of a Leisure Traveler: Generally, a traveler who has no pre-determined business reason for overnight stay—i.e. one who wants to be at a hotel for his or her own reasons, not for business reasons or as part of a group. A leisure traveler is typically not the beneficiary of corporate rate agreement or member of group or event under a group sales contract. Exceptions to this include a corporate traveler who books through a leisure channel or a group member who books outside the contracted room block.

B. Definition of a Leisure Sales Agreement: Any one of the many forms of sales agreements that fall between the more traditional corporate rate agreements and group sales contracts.

C. Evolution of Leisure Sales:

1. Many defining characteristics of the leisure sales field are constantly changing, from the parameters of a "leisure sale"—i.e. how industry members define leisure sales and distinguish it from other types of sales —to the technology used to facilitate the leisure sale, to how agreements are structured and negotiated.

2. These changes and the increased pace of these changes are primarily caused by rapid advances in technology; widespread and quick adoption of technology by leisure travelers and certain intermediaries; the constant creation, consolidation and demise of distribution channels; and the centralization of the sales process from property-level sales and marketing teams to large franchise and management companies.

3. The foregoing changes have, in general, allowed suppliers' to rely less on traditional receptive tour operators or wholesalers to reach important target markets (geographic or demographic) and instead focus sales efforts on retail channels and/or non-receptive wholesalers or operators that use a variety of technologies and sales tools to reach their target markets.

4. Suppliers' mismanagement of available channels combined with suppliers' historically slow adoption and acknowledgement of available technology have sometimes led to an overreliance on certain technologically savvy intermediaries.

II. Leisure Sales Channels

A. Retail

1. Attributes: Generally, a retail sale is direct to the guest with no use of an intermediary during the sales process. The main exception is the use of an intermediary in the booking process (e.g. commissioned travel agent), but there is usually a direct payment relationship between guest and hotel.

2. Examples: Global Distribution System(s) (GDS), hotel branded websites (hyatt.com; kimpton.com), call centers, etc.

B. Wholesale

1. Attributes: Wholesale channels rely entirely on one or more intermediaries and almost never involve direct payment relationships between the guest and supplier. This channel is filled with a variety of proprietary vernacular to describe intermediaries and the business models they employ (e.g. online-travel agents (OTAs), internet merchant model (IMM), third-party intermediaries (TPI))

III. Wholesale Channels (T.O.U.R.S.)

Supplier (S) → Receptive Wholesaler (R) → U.S. Tour Operator (U) / Overseas Tour Operator (O) → Travel Agent (T)

A. Supplier

B. Wholesaler

1. A receptive (or B2B) wholesaler assembles suppliers' products and services (e.g. rooms, transportation, excursions) and distributes the assembled packages through a variety of on-line or off-line channels to tour operators at a package rate that allows the receptive wholesaler and other intermediaries in the wholesale channel to profit from the eventual sale. The more intermediaries within any given receptive wholesale channel, the larger the discount likely required of the supplier.

2. A non-receptive (or B2C) wholesaler also assembles products and services, but then distributes those packages directly to the guest via a travel agent or other retailer.

3. Some wholesalers operate a combination of business/distribution models (e.g. receptive vs. non-receptive; package vs. stand alone).

4. Examples: Allied T Pro, Gullivers GTA USA, TeamAmerica

C. Tour Operators (U.S. / Overseas)

1. Like wholesalers, tour operators may operate on a receptive (B2B) or non-receptive (B2C) basis.

2. Tour operators may buy packaged inventory from receptive wholesalers or assemble their own packages with rooms purchased directly from suppliers and then distribute the packages via commissioned travel agents or other retail channels.

3. Examples: American Airline Vacations, British Airways Vacations, Kuoni, Tauck Tours

D. Travel Agent

1. Like the online version, the standard travel agent can play a number of roles, but in the wholesale channel, the travel agent typically acts as a commission-based retailer of the assembled travel package.

2. Examples: American Express, Carlson Wagonlit

E. Online Travel Agents (OTAs)

1. OTAs are a unique member of the wholesale distribution channel and, despite their name, can play any number of roles (e.g. receptive or non-receptive wholesaler/operator, travel agent). They are often treated as a separate category of wholesalers because of unique challenges that arise in Internet distribution agreements.

2. OTAs use a number of distribution/business models including opaque, merchant, and commission models, or a combination of these.

3. Inventory is sold or sales to guests are "facilitated" either as standalone rooms or packages.

4. OTAs have access to multiple distribution channels and points of sale based on technological connection capabilities and their agreement with the supplier.

5. Examples: Priceline.com, Expedia.com, Booking.com

IV. Supplier Contracting Concerns

A. Rate Parity and Integrity. The single largest issue faced by suppliers in conjunction with any wholesale supplier agreement. Whenever intermediaries are used, whether a receptive wholesaler, tour operator, OTA or a combination thereof, suppliers face a constant struggle to maintain parity and integrity among the various intermediaries regardless of whether a direct contractual relationship exists. Other factors that play a critical role in maintaining rate parity include (i) the wholesaler's applicable pricing strategy (retail rates vs. net rates), (ii) the supplier's best rate guarantee, if any, and (iii) general revenue management strategies.

1. OTAs typically enjoy "real-time" access to rate changes made by the supplier and distributed via Internet or GDS vs. more traditional wholesalers that do not and frequently use static pricing. These critical distinctions can create rate parity conflicts between channels.

2. Antitrust concerns may arise where a supplier's efforts to maintain pricing parity among channels using different pricing strategies (retail vs. net) is seen as fixing the retail price of inventory, particularly in the EU, where antitrust laws are far more stringent and the supplier may not be able to exercise sufficient control over downstream intermediaries.

B. Inventory Management. Depending on the form of intermediary and the economic climate at the time of contracting, wholesalers may require the use of a variety of distribution/management models (e.g. free sell vs. room blocks). Each model has its own unique challenges - last room availability, blackout dates, stop sell orders, etc.

C. Distribution Management. These concerns most often arise with the use of on-line receptive wholesalers. For example, what control, if any, will the supplier have over the content of a website that features the supplier's inventory? What geographical locations will the wholesaler cover or target (non-receptive/retail vs. receptive)? Does this interfere with other commitments to room parity or other inventory management issues?

V. Additional Common Negotiating Points

A. Marketing by Wholesaler on behalf of Supplier. Wholesalers want to use supplier's trademarks as keywords and suppliers want to own their own marks and drive traffic to the branded site. Wholesale agreements increasingly contain broad intellectual property licenses resulting in a loss of control by the supplier over its IP.

B. Payment/Business Viability Concerns. Wholesalers spring up overnight and fold the next day. Suppliers may consider requiring prepayment or evidence of credit worthiness.

C. Taxes. This is, and absent legislation that clarifies the issue, will continue to be a point of dissention between suppliers and any wholesaler that employs a net rate pricing strategy.

D. Communication and Connectivity. Uploading of supplier information and downloading of reservations occur under a variety of communication methods, the Internet, direct connection to an intermediary's extranet, automatic querying of the GDS—each model raises different concerns.

E. Data Privacy; Ownership, Protection and Use of Guest Information; PCI Compliance. Both suppliers and intermediaries face increasing state legislative attention to data privacy (personally identifiable information) and increased penalties for breach. PCI compliance is complicated and may require extensive reconfiguring of networks, especially if credit card information is stored in full on a hotel server. Allocation of responsibility for each will continue to create a number of challenges.

F. Liability for Participating Hotels. Suppliers may wish to avoid responsibility for the obligations of related suppliers (i.e. managed hotels) participating in the wholesale channel.

VI. Negotiation Strategies

A. Where, What and How? Understanding the role and position the intermediary plays in the leisure sales channel is critical to any successful negotiation of the sales agreement.

B. Understand the Applicable Distribution and Pricing Strategy(ies). Equally important is understanding both the distribution (e.g. receptive vs. non-receptive, on-line vs. off-line) and pricing (e.g. retail vs. net rate) strategies used by the intermediary.

C. Mechanics. Finally, any successful leisure sales agreement negotiation requires some elementary understanding of the technology used to share important property, rate, inventory and reservation information.