Duff on Hospitality Law

OTA & Travel Distribution Update – CMA initiates enforcement action against booking sites; Hoteliers seek dismissal of anti-trust suit; Consolidation of Indian and Middle Eastern booking sites

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This week's Update features a number of "legal" updates to stories we have been following for some time. Enjoy.

CMA Initiates Enforcement Action Against Booking Sites

("Hotel booking sites could be forced to stop claiming 'one room left'," Law360 – Hospitality, June 25, 2018)

Following its nearly 8-month (re)investigation of online booking sites operating in the UK, the UK's Competition and Markets Authority (CMA) announced last week that it was commencing enforcement actions against several unnamed "booking sites" over their alleged anti-competitive practices. According to the CMA, these questionable practices include (1) hotel rankings based on factors unrelated to a consumer's requirements (e.g., commission levels), (2) pressure tactics that give consumers a false sense of availability, (3) misleading discount claims and (4) hidden charges. The CMA will now seek binding commitments from the offending sites or, in the absence of such commitments, pursue claims in UK courts. As part of its enforcement efforts, the CMA is also referring a number of its concerns to the UK Advertising Standards Authority (ASA) to examine whether the sites' frequent claims of offering a "best rate guarantee" or the "lowest price" are misleading. It will be interesting to watch (a) how this enforcement effort unfolds and whether other European jurisdictions will

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soon follow suit - recall that the many anti-trust investigations that led to Booking.com's and Expedia's "narrow parity" compromise began with the efforts of CMA's predecessor, the Office of Fair Trading, and (b) whether this effort results in any changes to global booking sites' worldwide programs (e.g., Expedia's Accelerator Program or Booking.com's Preferred Hotel Programme). The official CMA news release is also available.

Hoteliers Seek Dismissal of Anti-Trust Suit

("Hotel Chains Want Out Of Search Engine Antitrust Suit," Law360 – Hospitlaity, June 25, 2018) (subscription required)

Hoteliers caught up this past March in allegations of violating U.S. competition law, sought to dismiss the frivolous suit this past week. According to the hoteliers' motion to dismiss, the plaintiff's conspiratorial allegations involving hoteliers' online advertising practices (e.g., keyword restrictions) amount to little more than independently motivated parallel conduct designed to rein in online booking sites' abuse of their valuable trademarks. In my own humble opinion, the plaintiff's claims give far too much credit to the influence of Dan Lesser and his alleged directive to hoteliers to raise their rates. Sorry Dan.

Industry Consolidation Continues as Indian and Middle Eastern Booking Sites Combine

("Indian Online Travel Agency Cleartrip Acquires Flyin," Skift Travel News, June 21, 2018)

India's second largest online travel company, ClearTrip, announced last week that it had acquired Flyin, the largest online travel company in Saudi Arabia. With the acquisition, ClearTrip will be better positioned in its ongoing fight with Indian market leaders, MakeMyTrip and Yatra. In their effort to gain market share, all three companies have resorted to steep discounting, which has made profitability elusive. With consolidation continuing and interest in the region growing among global distributors desperately seeking the next growth opportunity, look for the discounting (and lack of profitability) to end soon.

Other news:

HOTREC makes 3 proposals for more fairness and transparency in platform to business relations at today's EP Public Hearing

British Hospitality Association News, June 19, 2018

In today's public hearing of the European Parliament on platform to business relation, HOTREC emphasized the need for further fine-tuning the recently proposed Commission Regulation.

Travel SaaS startup Triptease books $4 mln

PE Hub – US Blog, June 26, 2018

Triptease, a travel SaaS startup which helps hotels to get more direct bookings and bring hospitality online, has raised $4m of additional funding from its investors BGF and Notion Capital, taking the total amount raised since last year to $13m. Triptease provides a data-driven software platform to hotels looking to increase their online conversion rate in the face of intense competition from online travel agencies (OTAs). Hotels around the world are anxious to avoid the large commissions paid to OTAs but need tools to make

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sure that travelers complete bookings through their website.

Posted in OTA Update

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