

Duff on Hospitality Law

OTA & Travel Distribution Update: Dutch authorities scrutinize keyword restrictions; TripAdvisor takes further precautionary steps to ensure guests' safety; Expedia considers following Booking.com's move on commissions

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This week's Update features an important story on possible changes to keyword contracting practices (or at least a new argument as to why existing practices are no longer appropriate). Enjoy.

Dutch Authorities Scrutinize Keyword Restrictions

("Booking.com and peers may face Dutch scrutiny of ad deals with hotel chains," MLex Insight, June 7, 2019)

In a study issued last week, the Dutch Authority for Consumers and Markets examined hotel booking platforms' (Agoda, Booking.com, Expedia and others) practice of agreeing contractually with hoteliers not to post advertisements in response to searches featuring the hoteliers' keywords (i.e. keyword restrictions). According to the Authority, such restrictions are likely to lead to higher prices on websites, which ultimately harms consumers. Although the study did not identify plans for a formal investigation or recommend sanctions, those of you seeking keyword restrictions (or seeking amendments to existing restrictions) should expect to hear a lot about this.

Safety Filters Not Enough

("TripAdvisor Pressured Into Making Additional Reforms to Support Sexual Assault Victims," Skift Travel News, June 6, 2019)

As a follow up to a [story](#) we featured a few weeks ago, TripAdvisor announced this past week that it was taking even more steps to ensure that guests' experiences regarding sexual assault or other violence are properly treated. Responding to protests that occurred just days after TripAdvisor's announcement that it was implementing filters on its site to allow users to search properties based on reports of sexual assault or violence, TripAdvisor has now committed, among other things, to improve response times to allegations of assault, provide sexual assault survivor training to its content and customer support teams and improve victims' ability to post reviews anonymously.

[Expedia Considers Following Booking.com's Move on Commissions](#)

("Expedia Mulls Matching Booking on Resort Fee Commissions," Skift Travel News, June 6, 2019)

In a wide ranging interview with Skift this past week at the NYU Hospitality Conference, Expedia Group's President of Lodging Operations, Cyril Ranque, noted that Expedia hasn't ruled out matching Booking.com's controversial new stance on commissions. According to Ranque, Expedia is trying to collect as information as possible before making any decisions, but admits that Expedia isn't a fan of resort fees. My take on this . . . It is only a matter of time before Booking.com's approach to commissions is adopted by most of the large distributors, at least to the extent that existing (or future) contracts allow.

Other news:

[Here Are Travel's Big Winners in an Antitrust Crackdown on Big Tech](#)

Skift Travel News, June 4, 2019

Some are too scared to say so publicly, but much of the travel industry would welcome a diminution of Google's vast market power. If a U.S. regulatory probe gets going against Big Tech, it is a very open question how far-reaching a remedy might be in the offing. Suddenly there is a glimmer of hope that the travel industry can get some relief from nearly mandatory fees: paying for ads in Google search and in its hotel and flights shopping services to get visibility. That's because Google, Facebook, and Amazon could reportedly face tough antitrust enforcement from U.S. regulators, as well as an inquiry by the House of Representatives' Judiciary Committee.

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