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Duff on Hospitality Law

Third-Party Platforms Enter the Legal Fray

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Hi there, and welcome back to the *Regulatory Check-In*!

This week: airlines face an antitrust suit over shared pricing data, the FTC orders airlines and platforms to explain how they use personal data to set prices, the FTC and states sue Toast over hidden fees, the EEOC withdraws its criminal history guidance, and AI litigation risk spreads to affiliated companies.

Airlines Hit With Broad Antitrust Suit Over Price Info Exchange: A proposed class action filed in Washington federal court alleges that Delta, United, American, Alaska, JetBlue and Southwest kept airfares high by sharing proprietary dynamic pricing information through a revamped data hub run by Airline Tariff Publishing Co. (ATPCO). Airlines aren't hotels, but the theory carries over easily. The question is when sharing pricing data through a common platform becomes coordinated pricing among competitors. It's the same question raised by the McDonald's AI pricing case, and it lands in the same court as the Expedia rate parity suit we covered last month. Taken together, these cases suggest that pricing data shared through third-party platforms, not just direct agreements between competitors, is becoming a focus for antitrust plaintiffs across travel and hospitality.

FTC Launches Personalized Pricing and Compensation Inquiry: The FTC has ordered nine major airlines, ride-sharing companies and food-delivery firms to provide detailed information on how they use personal data to set prices and compensation. It's the next step after the FTC's proposed personalized pricing policy, which AHLA asked to expressly distinguish loyalty, member rates and market-based dynamic pricing from data-driven price increases. Hotels weren't named this round, but airlines were, so travel is squarely in view.

FTC, States Sue Toast Over Hidden Fees and Subscription Traps: The FTC and a coalition of state and local officials have sued restaurant technology provider Toast. They allege it charged restaurants hidden and unauthorized fees (among other claims). This is the "junk fee" fight reaching the vendors that businesses rely on, a trend we flagged when merchants began suing their own payment processors. For hotel F&B operations, the case is a signal that regulators now view businesses not only as sources of junk fees but as potential victims of them, which may give operators new leverage with their own technology vendors.

EEOC Eliminates Long-Standing Criminal History Guidance: The EEOC has revoked its 2012 guidance on using arrest and conviction records in hiring decisions. That guidance warned employers that blanket "no criminal record" policies could violate federal anti-discrimination law, and it encouraged case-by-case review instead. Revoking it removes the roadmap, but not the underlying law. It's the second time this year the EEOC has pulled long-standing employer guidance, after it rescinded its affirmative action guidance in June. For hotels, which hire hourly staff in high volume and rely heavily on background checks, the result is

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less federal direction on what a defensible screening policy looks like, at a time when state and local fair-chance hiring laws continue to set the day-to-day rules.

AI Litigation Risks Are Expanding to Affiliated Companies: Litigation against AI developers and platform operators is well underway, and plaintiffs are now reaching companies affiliated with them, such as investors, business partners and companies that build AI tools into their own products and services. For hotels, the more relevant position is the deployer: the company that puts a vendor's chatbot, pricing tool or guest-facing AI in front of customers. If that tool mishandles guest data, produces inaccurate information or relies on improperly sourced training material, the hotel's name may end up on the complaint alongside the vendor's. Hoteliers licensing AI tools should check whether their contracts address AI-specific risks.

Airlines Hit With Broad Antitrust Suit Over Price Info Exchange
November 5, 2026 via Law360
Major airlines including Delta, United, American, Alaska, JetBlue and Southwest have kept airfares high by sharing proprietary dynamic pricing information through a revamped data hub operated by Airline Tariff Publishing Co., two ticket buyers claim in a proposed class action filed in Washington federal court Wednesday.

EEOC Eliminates Long-Standing Criminal History Guidance
October 29, 2026 via Law360
The U.S. Equal Employment Opportunity Commission has revoked Obama-era guidance that outlined employers' legal obligations in their use of workers' arrest and conviction records to make employment decisions, the agency announced Thursday.

AI Litigation Risks Are Expanding To Affiliated Cos.
October 29, 2026 via Law360
Litigation targeting artificial intelligence developers and platform operators is well underway.

FTC, States Sue Toast Over Alleged Hidden Fees, Subscription Traps
October 29, 2026 via QSR Web
The Federal Trade Commission and a coalition of state and local officials have sued restaurant technology provider Toast, alleging the company charged restaurants hidden and unauthorized fees, made it difficult to cancel subscriptions and failed to deliver on promises of 24/7 customer support, the FTC has announced in a news release.

FTC Launches Personalized Pricing and Compensation Inquiry
October 28, 2026 via U.S. Federal Trade Commission
The Federal Trade Commission today ordered nine major airlines, ride-sharing companies and food-delivery firms to provide detailed information that will allow the agency to study the use of personal data to set prices and compensation.

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