

Duff on Hospitality Law

## **OTA & Travel Distribution Update: Conspiracy theorists live another day; major distributors' annual advertising spend sets another record**

By Greg Duff on 3.29.19 | Posted in OTA Update

This week's Update includes status reports on several ongoing distribution-related court cases involving both hoteliers and distributors.

### **Conspiracy Theorists Live Another Day**

*("Lawsuit on hotels' internet advertising tactics moves forward," Reuters Company News on Mar 21, 2019)*

Federal District Judge Rebecca Pallmeyer refused last week to toss out claims against several major hotel brands over their alleged conspiracy not to compete online. If you recall, the case centers around plaintiff's claim that the major hotel brands agreed not to bid on each other's keyword search terms (which ultimately resulted in higher room rates). The court's ruling at this very early stage in the case by no means suggests that the plaintiff's claims have merit. Instead, the court's decision means (in the words of the court) that the brands had an "opportunity" to compete unfairly. Those interested in a detailed discussion of the plaintiff's claims and the court's initial (somewhat skeptical) review of those claims should take a look at the attached court order.

### **Major Distributors' Annual Advertising Spend Sets Another Record**

*("Online travel agency giants spent \$10.6B on marketing in 2018 (but look closer)," Phocus Wire, March 14, 2019)*

No surprise here. Major online booking channels' advertising spend last year hit record highs - Expedia Group - \$5.6B and Booking Holdings - \$4.96B (a combined increase of 8% over 2017's marketing amounts). Although these staggering amounts continue to shock the industry, the growth has slowed. As Google (the major benefactor of the online channels' largess) has continued to expand its travel industry offerings, the major channels have begun to reconsider their massive investments. For Booking Holdings, this means a greater focus on building brand recognition through direct marketing. For Expedia, this means a focus on channels that deliver incremental growth, including television and digital video.

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Other news:

### **Airbnb's Potential Investment in Oyo, Explained**

*Skift Travel News, March 22, 2019*

This year is shaping up to be the year when Airbnb gets all of its ducks in a row before the big IPO. Investing in adjacent businesses like Oyo is a major part of that strategy. But will any of this ultimately matter — or make a difference — once the company goes public? Recent news that Airbnb was considering an investment in fast-growing discount hotel chain Oyo, with mostly a footprint in Asia, underscored the homesharing giant's quest to build greater global scale — and sent a message that it's not planning to tap the brakes anytime soon even as it prepares for an eventual IPO.

### **Call for OTAs to stop 'brandjacking' on Google**

*Hospitality Net - Latest Industry News, March 18, 2019*

The UK Bed & Breakfast Association wants a ban on 'brandjacking' of hotel and B&B names on Google by online travel agencies (OTAs). David Weston, B&B Association chairman, is urging the Competition and Markets Authority (CMA) to act.

### **Expedia Class Certified**

*Courthouse News, March 15, 2019*

A federal judge certified a class of hotel owners challenging Expedia's practice of falsely claiming that their hotels are sold out simply because they are not associated with Expedia.