

Duff on Hospitality Law

OTA & Travel Distribution Update: The Impact of EU online sales rules on the lodging industry; OTAs under Korea Fair Trade Commission scrutiny; airline technology under the microscope as Sabre antitrust trial begins

By Greg Duff on 2.10.20 | Posted in OTA Update

Luxury-Goods Makers Making the Case for Permissible Distribution Controls

(“New EU online-sales rules should step up fight against free-riders, luxury-goods makers say,” MLex Insight on Jan 31, 2020)

Why, you might ask, are we leading with a story on luxury-goods makers’ fight for permissible distribution controls in the EU? In short, because the same EU regulations and European Commission (EC) decisions applying those regulations that affect luxury-goods makers’ ability to govern the online distribution of their products by third parties are (rightly or wrongly) finding their way into the lodging industry. If you’re not already familiar with the Vertical Block Exemption Regulation (VBER) or the European Commission decisions in Coty or Guess, you may soon be. While there are both factual and legal arguments as to why the VBER and related EC decisions are not applicable to hotel distribution, distributors and wholesalers operating in the EU are increasingly relying on the VBER and related decisions to reject efforts by hoteliers to avoid the display of their properties on certain troublesome distribution platforms, to impose industry standard keyword restrictions or to require the purchase of negative keywords. Luxury-goods makers, which fear the inability to control the method and manner of online distribution of their luxury products on well-known discount platforms such as Amazon and Alibaba, have taken up the fight in favor of updating the VBER and its anti-trust exemptions permitting certain sales tactics.

OTAs Under Korean Regulator Scrutiny

(“Online-booking platforms may be tapped by the KFTC soon as the regulator gears up for further regulatory step,” MLex Insight on Jan 31, 2020)

Online distributors operating in South Korea are expected to soon be the subject of an investigation by the Korea Fair Trade Commission (KFTC). Prompting the investigation is the KFTC’s recent (where have they been?) discovery of parity provisions contained in distributors’ contracts with South Korean hoteliers. It will be interesting to watch whether distributors’

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typical offer of “narrow” parity will satisfy the KFTC, or whether the KFTC seeks the complete removal of the parity provisions (similar to approaches being taken in Japan). We will keep you posted.

Airline Technology Under the Microscope as Sabre Trial Begins

(“What the Sabre-Farelogix Antitrust Trial Could Reveal About Airline Technology,” Skift Travel News on Jan 27, 2020)

For some time now, we have been following Sabre’s proposed purchase of startup Farelogix. Last week, the Department of Justice began presenting its case against the global distribution system and its proposed purchase. As the trial begins, *Skift* published a comprehensive overview of the case and the competing perspectives on Farelogix (one of many airline technology providers or Sabre killer) and its place in the convoluted world of airline distribution. Although the case is (?) limited to airline distribution, the lessons learned through the Sabre/Farelogix saga could easily apply to hotel distribution.

Other news:

Regulatory Scrutiny of Online Travel Platforms Could Shed New Light on Business Practices

Skift Travel News on Jan 29, 2020

Online travel companies have faced intense regulatory scrutiny almost since the first days of internet bookings. But “you’ve got mail” these days is less likely to be a cheery email notification than a demand for court appearances and audits.