

Duff on Hospitality Law

Online Travel Update: 2022 Year in Review

By Greg Duff on 12.30.22 | Posted in Online Travel Update

Happy New Year! We are once again providing a roundup of some of the major developments and trends in the online travel industry that caught our attention this past year. Wishing everyone a successful 2023.

- Greg Duff

Roundup of 2022 "Online Travel Update" Blog Posts

February 11, 2022

- **Travel Management Companies in Transition.** This past year has seen a sea change (largely through mergers and acquisitions) among the traditional management companies, booking platforms, expense management tools and payment cards serving the corporate travel industry – all during the second year of a pandemic that has brought the corporate travel world to its knees. So what does this change mean for the buyers that these platforms serve? Improvements in the online booking experience (offering a more traditional consumer user experience – think Amazon), growth in mobile applications and the use of other emerging technologies. While these “improvements” may be championed as helping drive corporate bookings for suppliers, we’ve seen first hand how these changes are complicating the once staid world of corporate distribution. As these platforms get larger, so do their financial demands – transaction fees (fka commissions), marketing commitments, etc. Traditional travel management companies that once catered exclusively to corporate travelers via traditional offline channels are now venturing into other segments, mixing products and services (and rates) and re-distributing them through the myriad of channels and distribution points available online. We’ve seen this evolution before with the leisure segment (think post 9/11 and the rise of the online leisure platforms), and now it has arrived with business and corporate segment. Group isn’t far behind.

February 18, 2022

- **The Travel Industry's Push on Climate May Have Legs.** For some time now, we've all seen the many surveys of would be travelers (particularly, younger travelers) detailing the importance of the environment and climate change in today's travel decisions. Our weekly Update has recently featured a number of stories about this trend, including the recent launch of online [platforms](#) offering travelers carbon neutral travel. This past week, Spain-based bedbank, [Hotelbeds](#), released its annual Environmental, Social and Government Report in which Hotelbeds claims it has again (for the fourth year running) attained carbon neutral status – through a combination of carbon reductions and offsets. At the same time, Hotelbeds also announced that it has joined Amazon's Climate Pledge, which features companies committed to eliminating their carbon emissions to zero by 2040. So what does this really mean? Will efforts like these mean enough to travelers to actually drive bookings or market share? With Hotelbeds feeling the heat from increased competition in its wholesale space (think Expedia EPS and soon, Priceline's equivalent offering), Hotelbeds is "banking" on it.

March 25, 2022

- **Kayak Grows Development Team.** While some of us might have thought that Kayak's foray into brick and mortar locations was going to be short lived, Kayak's announcement last week that it had hired industry veteran Indy Adenaw as Kayak Hotels' new managing director to lead Kayak's global expansion suggests otherwise. According to the announcement, Kayak expects to add 10 new Kayak "powered" properties this year.

April 15, 2022

- **Uber Continues Push to Super App Status.** Early last month, we featured a [story](#) detailing Uber's planned roll out of events and activities on its mobile app. Uber's ultimate plans for its app became a little clearer this past week. This summer, Uber users in the UK will be able to book rail tickets and rental cars on the app. In the fall, UK users will have access to flights and hotels. Uber plans to rely on third-party partners to provide the required inventory (via API connections). In the words of Uber's UK regional general manager, Jamie Heywood, the service and product additions allow Uber users a "seamless door-to-door travel experience." Sounds like someone has been listening to Booking Holding's Glenn Fogel and his plans for Uber's soon-to-be competitor, [Booking.com](#).

April 22, 2022

- **Group Travel Continues Its Move Online.** Anyone else seeing the dramatic shift of group bookings to online platforms? For years, both groups and the hotels, conference centers and convention centers that host them viewed online platforms as less than adequate to manage the myriad of options associated with most group bookings. As our Updates over the past weeks and months have detailed (supported by the volume of requests that we are receiving regarding these new group booking platforms), that is all changing. CVENT's announcement this past week regarding its newly launched Vendor Marketplace represents another interesting step in this online group booking evolution. According to the announcement, the new Marketplace will allow a wide variety of vendors (18 vendor categories and 300 vendors, including A/V, accessibility specialists, rental companies, health and safety consultants) to connect directly with meetings planners during the online RFI or RFP process. With one comment set of meeting details, planners will now be able to receive responses not only from hotels, but also the hundreds of vendors featured in the Marketplace. What might this mean for hoteliers that have traditionally provided many of these ancillary services themselves or via well-known (and sometimes exclusive) vendors, only time will tell. If nothing else, it may be time to reconsider those third-party contractor provisions in your form sales agreements.

April 29, 2022

- **Influencers Under a Legal Microscope.** This past week, the consumer-advocacy group, [Travelers United](#), filed suit against social media influencer, [Cassandra De Pecol](#) and her company, Expedition 196. In its lawsuit, Travelers United takes aim at De Pecol's claim that she is the first woman to travel to all the countries in the world (despite evidence that several women accomplished the goal before De Pecol), De Pecol's alleged failure to disclose that she's paid by many of the brands she features in her social media posts and De Pecol's allegedly misleading reviews (actually, her own reviews) of her recent book. The suit suggests that Travelers United may be making an example out of De Pecol whose alleged practices are reflective of the many perceived ills of social media generally.

June 10, 2022

- **Chase Takes On CapitalOne.** Last month, Chase announced that it plans to launch later this year a new consumer booking platform – www.ChaseTravel.com – initially for holders of Chase cards and ultimately for all of its banking clients. According to co-CEO of Consumer and Community Banking, Marianne Lake, with Chase's pandemic acquisitions

of cxLoyalty (a two-sided travel platform) and Frosch (a top ten leisure travel agency), the bank is now positioned to provide the booking engine, content and service and support expertise and infrastructure needed to support its banking customers. According to Lake, Chase today is a top five U.S. consumer travel provider (up from a top 15 travel provider in 2019), even before the launch of the new platform.

June 17, 2022

- **Leave Anytime: Hopper's Latest Offering.** Don't like your hotel or the room you received? No problem. Hopper has a solution. Hopper announced last week its latest fintech offering, which allows guests in exchange for a fee paid to Hopper at the time of booking to leave their hotel at any time for any reason following check-in. Guests electing to leave their original hotel can then book an alternative hotel with Hopper covering the costs. Hopper estimates the price for this new option to average \$30.00. Hopper claims that it will pay the fees and charges owed the guest's original hotel, though one can foresee a future where Hopper becomes a formidable adversary disputing hotel charges on behalf of their allegedly disgruntled guests. With this latest announcement, Hopper also announced the expansion of several of its existing offerings, including the expansion of its cancel for any reason product into hotels and its price freeze product into rental cars.

August 5, 2022

- **EU's Digital Markets Act (DMA) Moves Forward.** The European Council approved the DMA earlier this month, and once signed by the President of the European Parliament and President of the European Council, the legislation will become effective 6 months later. While much has been written about the DMA and its many rules for large online platforms (so-called "gatekeepers"), its effect on the online travel industry remains unclear. Metasearch companies have applauded the DMA's passage in the hope that the DMA curbs alleged market abuses by Google. Other industry members – particularly those identified as possible "gatekeepers" (both [Booking.com](https://www.booking.com) and Airbnb) – have spoken cautiously in favor of the DMA and its stated goals while at the same time disputing their possible gatekeeper status. With a clearer path and timeline for the ultimate rollout of the DMA, expect to hear a lot more about the legislation and the changes coming to a travel platform near you.

November 9, 2022

- **Biden Administration Announces Plan to Tackle "Surprise Fees."** In comments last week, President Joe Biden noted that his administration planned to crack down on

“surprise fees,” which according to Biden, included specifically hotel resort fees. Earlier this month, the Federal Trade Commission issued an Advance Notice of Proposed Rulemaking (ANPR) to initiate an administrative rule making process to address junk fees. The FTC is now seeking comment on the issue. Copies of the FTC press release and ANPR are attached. We will continue to keep our readers apprised of the FTC’s activities going forward.

November 11, 2022

- **EU Court Asked to Reconsider Market Definition (and Parity).** Nothing like having home court advantage in high stakes anti-trust litigation. A Dutch court considering claims of anti-competitive behavior by local hoteliers against [Booking.com](#) has asked the European Court of Justice for direction on defining online markets and whether price parity provisions comply with EU competition laws. In its request, the Dutch court questioned whether online travel platforms truly constitute a separate market (separate and apart from the many other available distribution channels available to travel suppliers). The European Court’s response to the question will not only affect EU competition litigation in the future, but may also affect the decision of whether [Booking.com](#) will be subject to the Digital Markets Act (DMA), which among its many other prescriptive measures, bans entirely MFN or parity provisions. We’ve linked below [Booking.com](#)’s response to the Dutch court’s request, which includes statements by [Booking.com](#) that seemingly re-confirm its agency status. These are definitely interesting times in the world of EU competition law and its effects on global online travel platform.