

Duff on Hospitality Law

2024 in Review: Key Highlights from Online Travel Updates

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Good Sunday morning and Happy New Year!! We are again providing a roundup of a few of the stories that we feel made the biggest impact in the online travel industry over this past year (and continuing into this year). Wishing all our readers a great 2025.

Roundup of 2024 "Online Travel Update" Blog Posts

January 19, 2024

European Regulators Seek Information on Booking.com. Not only is Booking.com expected by many to fall under the Digital Markets Act's (DMA) "gatekeeper" designation in the coming months, but EU regulators are now exploring whether Booking.com (and 16 other large online platforms and search engines (e.g., Bing, Facebook, Google and Google Maps)) is a "very large online platform" and therefore subject to the many requirements of the DMA's sister legislation, the Digital Services Act (DSA). If determined to be a platform under the DSA, Booking.com will be required to use consumer friendly terms and conditions and to provide consumers and regulators transparency with regard to its advertising, recommendation and content practices. 2024 may turn out to be a big year for Booking.com.

January 26, 2024

First Impressions of Google's Proposed DMA Changes to Search. With the Digital Market Act's (DMA's) ban on self-preferencing by so-called "Gatekeepers" set to take effect in early March (March 7), Google has begun rolling out on a limited test basis proposed changes to its EU search results for flights. The responses have been less than flattering. Leading the opposition to the proposed changes is online travel platform eDreams Odigeo, which has made quite clear that it believes the proposed changes do not go far enough and warrant enforcement efforts by EU authorities. eDreams' concerns have been echoed by other industry groups, including [eu travel tech](#) and [EU Tech Alliance](#), which have largely focused on Google's alleged failure to effectively engage with industry members before moving forward with the changes. While most of eDreams' complaints are focused on flights, it claims that similar concerns also apply to the proposed changes for hotels and activities / experiences. I expect that we may hear from hoteliers soon.

February 24, 2024

Still Think That AI Will Solve Everything? Air Canada Might Think Otherwise. A recent small claims court ruling provides an important reminder (and salient advice) to anyone thinking about using an AI powered chatbot. The case stems from allegedly incorrect advice given by Air Canada's website's chatbot over the airline's bereavement policy. In response to a traveler's claims that it had received incorrect advice from the chatbot, the airline sought to defend the claims by arguing that it could not be held liable for the chatbot's incorrect advice (somehow the chatbot was a separate legal entity responsible for its own advice). What? The judge disagreed with the airline's position and found the airline responsible for not taking reasonable care to ensure that the chatbot's advice was correct.

March 29, 2024

DOJ and FTC File Statement of Interest in Algorithmic Price Fixing Case. This past week the U.S. Department of Justice and Federal Trade Commission filed a joint statement of interest in a pending case against major casino hotel operators alleging that the operators violated U.S. antitrust law by agreeing to use a third party computer pricing algorithm to set room prices. According to the agencies, hotels cannot use algorithms to engage in conduct that is otherwise illegal if done by a real person. The statement clarified two important aspects of U.S. anti-trust law as it relates to the use of pricing algorithms. First, claimants do not need to prove that competitors spoke directly, particularly when an algorithm provider that works with the competitors is alleged to be acting in concert. Second, an agreement among competitors to use a pricing algorithm is unlawful, even if the competitors retain some pricing control. This isn't the first time that one or both agencies have intervened in cases involving pricing algorithms. In recent cases involving the real estate industry and meat processing industry, the agencies challenged competing firms' use of pricing algorithms. A copy of the agencies' joint statement is linked to our story below.

May 31, 2024

A Few More Carrots Than Sticks: American Airlines' About Face. Facing cuts in its financial forecasts, American Airlines announced this past week that it was moderating its historically aggressive NDC rollout. According to American CEO, Robert Isom, the airline's financial misses were due, in part, to its misguided sales and distribution strategy. Going forward, American will seek to incentivize agencies' and advisors' use of its NDC platform as opposed to penalizing those who don't. As part of its newly announced change, American is reversing one of the most controversial aspects of its NDC campaign, the withholding of American Advantage loyalty benefits on bookings made through non preferred NDC advisors.

June 14, 2024

ADA Booking Accessibility Rules at Issue in Recently Announced Marriott Settlement.

Federal prosecutors in Colorado announced last week a landmark settlement with Marriott over the booking of accessible rooms across the Marriott portfolio. At issue were Marriott hotels' alleged failure to provide needed detail about ADA accessible hotel rooms and the inability (prior to October 2022) to guarantee an ADA accessible room through Expedia. As part of the settlement, Marriott has agreed, among other things, to list all of its accessible rooms through its centralized booking system, to provide details about each accessible room, to make accessible rooms available through the largest online travel agents (Expedia and Booking.com) and to allow Marriott Bonvoy members to book accessible rooms with points. The Colorado settlement agreement (a copy of which is embedded in the attached Skift article) will likely serve as a baseline for future enforcement and compliance efforts (similar to Marriott's settlement with Pennsylvania regarding mandatory fee disclosures). I'd encourage everyone to read it.

July 12, 2024

Marriott Introduces Business Access by Marriott Bonvoy. Marriott's launch of its new small and medium sized business travel platform, Business Access by Marriott Bonvoy, captured much of the online travel industry's attention this past week. The new program, which is powered by Spotnana, offers business users a variety of traditional and non-traditional travel tools and services – discounted hotel stays at participating Marriott properties, loyalty program benefits, access to flights, rail tickets and rental cars and other traditional TMC services – expense management, employee tracking, etc. To participate, travelers must be members of Marriott's loyalty program, Marriott Bonvoy.

December 6, 2024

Industry Layoffs Are Not Limited to Hoteliers. In recent weeks, much has been written about re-structurings and layoffs occurring at the large hotel companies. This past week, we were reminded that these same re-structurings and layoffs are also occurring with some of the largest distribution platforms (Expedia earlier this year and now Booking Holdings). Booking Holdings' recent announcement regarding the layoff of 60 employees at one of its business units, Rocket Travel, raises interesting questions about Booking Holdings' overall business (B2B) strategy.

December 20, 2024

FTC Issues Final Junk Fees Rule. On Tuesday (December 17), the FTC announced its final junk fees rule. The final rule is much narrower than the proposed rule that was issued in October 2023 (and garnered 60,000 comments) and focuses exclusively on live-event ticketing and short-term lodging (i.e., hotels and short-term rentals). A few key highlights to consider:

- The rule **does not** prohibit resort or amenities fees (or any similar pricing model). Hotels may still impose the mandatory charges.
- The rule requires that the total price (rate plus other mandatory fees, excluding taxes) be clearly and conspicuously displayed whenever pricing is displayed or advertised. The total price must also be more prominently displayed than other pricing information.
- The new rule applies both to hoteliers and other third-party distribution platforms.
- The rule goes into effect 120 days after being added to the Federal Register (date uncertain) and could be invalidated by an act of Congress under the Congressional Review Act. The fact that the rule does not even go into effect until months into the Trump administration caused one FTC commissioner to dissent to the proposed rule – not on substantive grounds, but on procedural.