

Duff on Hospitality Law

## **OTA & Travel Distribution Update - Airbnb avoids liability for lease violations; Short-lived successes at Room Key; Hopper makes the leap into hotel bookings**

By Greg Duff on 1.12.18 | Posted in OTA Update

The first installment of our weekly OTA & Travel Distribution Update for 2018 is below. A mix of stories in this week's Update.

### **[Airbnb Avoids Liability for Lease Violations \[SHORT-TERM RENTALS\]](#)**

*("Airbnb Ducks Apartment Managers' Beef Over Rentals," Courthouse News, January 3, 2018)*

A California federal district court dismissed last week a class action brought against Airbnb by a collection of Southern California apartment management companies. According to the companies, Airbnb encouraged tenants in their buildings to violate the short-term rental prohibitions in the tenants' lease agreements (which identified by name, Airbnb) and created an unsafe environment for their full-time residential tenants. Relying on Section 230 of the federal Communications Decency Act (CDA) (the sometimes controversial federal statute that protects internet service providers and other online platforms from liability for unlawful content or activities posted or conducted via their services), the court dismissed the claims stating that Airbnb was not responsible for the actual listing information posted by tenants on the Airbnb website – even if it was in breach of the tenants' underlying lease obligations. According to the court, the services provided by Airbnb and the content required by Airbnb to be posted to provide those services did not make Airbnb an information content provider and therefore exclude Airbnb from the protections of the CDA.

### **[Room Key Celebrates \(Short-Lived\) Success \[OTA\]](#)**

*("Hotel Loyalty Rates Finally Gave Room Key Site an Advantage," Skift Travel News, January 2, 2018)*

Skift featured an interesting piece last week lauding Room Key's 2017 success (as measured by transaction volume). Skift attributed the increased volume to Room Key's featuring of the discounted loyalty program rates of many of its supplier partners. One has to wonder how long this phenomenon might continue as more and more chains elect to make their discounted loyalty program rates available on other, larger third-party distribution channels (e.g. Red Lion, G6 and others).

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### **Hopper Brings Predictive Pricing and Immersive Videos to Hotels [OTA]**

*("Hopper opens door to hotel bookings with immersive experience," Tnooz News Feed, January 3, 2018)*

Hopper, the widely used flight booking application that uses predictive analytics to forecast airfares, launched last week a new component (Hopper Hotels) that allows users to use the same predictive analytics for booking accommodations. In addition, Hopper Hotels provides users "immersive hotel stories" for each Hopper-listed hotel property, which are presented via high-quality 360 degree videos that it creates (and owns).

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Other news:

### **IBM sues Expedia, alleging online travel giant built its business on Big Blue's patents**

*GeekWire, January 3, 2018*

IBM is suing Expedia, alleging that the popular travel site has for years been infringing on several of its patents, some of which date back to the early days of the internet. IBM alleges Expedia's infringements cover a variety of areas, such as ad technology, sign on processes, tracking previous communications with users and more. The lawsuit includes Expedia's website and mobile apps, as well as its subsidiaries HomeAway, Hotels.com, Hotwire and Orbitz.