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The French, Italian and Swedish Competition Authorities Accept the Commitments Offered by Booking.com

In their investigations of so-called "price parity" clauses (also called "best price" clauses) contained in agreements between online travel agencies (OTAs) and hotels, the French Competition Authority (FCA), the Italian Competition Authority (ICA) and the Swedish Competition Authority (SCA) coordinated their investigations and, on 21 April 2015, adopted parallel decisions accepting identical commitments [\[1\]](#) from the market-leading OTA Booking.com and making them binding in their respective jurisdictions. The European Commission assisted the authorities in coordinating their work.

OTAs such as Booking.com operate internet platforms, on which consumers can search for, compare and book hotel rooms free of charge. Hotels only pay commission to the OTA for its services when a booking is made. The price parity clauses essentially require the hotels to offer the same or a better room price on Booking.com's platform as they offer on their other sales channels, including the hotel's own direct sales channels, be it online or offline. This means that Booking.com can raise its commission rate without the risk that hotels will translate this cost increase by offering higher room prices on Booking.com's platform than on competing OTA platforms. The price parity clause, combined with the fact that hotels generally tend to sign up with several competing platforms, implies that Booking.com has less incentive to compete with other OTAs by charging lower commission rates to hotels than would otherwise be the case. As a result, the price parity clauses may restrict competition between existing OTAs and may lead to higher commission rates, which in turn may translate into higher consumer prices for hotel rooms. Furthermore, the price parity clause may constitute a barrier to entry on the market, by making it more difficult for an OTA to enter or expand on the market by competing with low commission rates in exchange for hotels offering lower room prices on that OTA's platform. The three national competition authorities (NCAs) launched investigations to ascertain whether the price parity clauses in Booking.com's agreements with hotels infringed the prohibition of restrictive agreements in Article 101 TFEU and, in the case of France and Sweden, the equivalent national legislation. The FCA's investigation was also initiated on the basis of a possible infringement of the prohibition against abuse of dominance of Article 102 TFEU and its national equivalent.

In the course of the investigations, Booking.com conducted a customer survey of 14 000 consumers in 9 Member States and produced economic papers to argue, essentially, that parity between room prices in hotels' own sales channels and prices offered on Booking.com's platform is important in preventing free-riding on Booking.com's investments and ensuring the continued supply of search and comparison services free of charge to consumers.

To solve the identified competition concerns, Booking.com offered a first version of commitments that were market tested and subsequently improved. In essence, the adopted commitments prevent

Booking.com from requiring hotels to offer better or equal room prices via Booking.com than they do via competing OTAs. In addition, Booking.com cannot prevent hotels from offering discounted room prices provided that these are not marketed or made available to the general public online. The discounted prices can be offered online to members of a hotel's loyalty scheme and/or via offline channels (e.g. direct emails, telephone and walk-in bookings).

The three NCAs performed economic analyses of the commitments and concluded that they will meet their competition concerns. The commitments will put pressure on OTAs' commission rates and the quality of service, which will ultimately lead to lower room prices and better services for consumers. The commitments will also make it easier for new OTAs to enter the market and for innovative OTAs to expand.

Following the commitment decision, the Booking.com cases were closed in France, Italy and Sweden. However, the respective competition authorities continue their investigations concerning Expedia's price parity clauses and in France also concerning HRS's parity clauses.

See further:

[Decision](#) of the Autorité de la concurrence:

[Decision](#) of the Autorità Garante della Concorrenza e del Mercato:

[Decision](#) of the Konkurrensverket:

[1] The French version of the commitments provides for a mid-term review.

Authority:

[France - Autorité de la concurrence](#)

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