

Digital Comparison Tools Market Study: ANONYMISED RESPONSE FROM LARGE HOTEL CHAIN B

1. Thank you for taking the time to respond to the questions in the Statement of Scope for our Market Study of Digital Comparison Tools (DCTs), published on our [website](#) on 29 September 2016.

2. Please download and save this form before completing it. Please submit your response by **5pm on Monday, 24 October 2016**, either by:

- Email to: comparisontools@cma.gsi.gov.uk.
- Or by post to: Digital Comparison Tools Market Study
Competition and Markets Authority
7th floor
Victoria House
37 Southampton Row
London WC1B 4AD

3. Please note:

- You can choose which questions to respond to, but we ask all respondents to provide a small amount of background information at the start of this form. The boxes will 'expand' to accommodate long responses if required.
- We are particularly keen to receive evidence in support of responses. If you are able to supply evidence please attach this with your response.
- We intend to publish responses to our Statement of Scope in full. If you wish to submit information that you consider to be confidential, this should be indicated to us clearly and an explanation given as to why you consider it to be confidential.
- The CMA may use the information you provide for the purposes of facilitating the exercise of any of its statutory functions. This may include the publication or disclosure of the information. Prior to publication or disclosure, in accordance with its statutory duties under Part 9 of the Enterprise Act 2002, the CMA will have regard to (among other considerations) the need to exclude, so far as is practicable, any information relating to the private affairs of an individual or any commercial information relating to a business which, if disclosed, would or might, in our opinion, significantly harm the individual's

interests or, as the case may be, the legitimate business interests of that business (confidential information). Further information about how the CMA will use information submitted during the Market Study can be found on our [website](#).

4. If you have any questions about our Market Study or this online form please contact the team at comparisontools@cma.gsi.gov.uk.

Your details

(Fields marked * are required)

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| If you are representing yourself rather than an organisation would you be content for us to include your name when we publish your response?* | N/A |
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If you are representing an organisation:

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| (a) What is the organisation's name?* | Hotel company |
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| (b) Please could you briefly explain the role of your organisation, including the sectors in which it operates or has most interest?* | |
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Theme 1: Consumers' perceptions, use and experience of DCTs

We will analyse consumers' awareness, understanding and perceptions of DCTs – for instance, how well consumers understand and/or trust DCTs, and what this means for whether they use them.

We also want to understand consumers' behaviour and experiences with DCTs, including what consumers expect to get from DCTs compared with what they actually receive. We will also look at whether they use DCTs just to compare products and suppliers or also to switch; how many DCTs they use; how successfully they use them; and the benefits they derive from doing so. We will also want to understand what happens when something goes wrong and consumers' expectations are not met (knowingly or otherwise). We also plan to understand whether increased use of DCTs results in excessive focus on price, to the exclusion of other factors and to the detriment of consumers' overall decision-making.

1. When and why do consumers use DCTs? To what extent do they trust them?

When and why do consumers use DCTs?

The DCTs operating in the hotel online booking market are known as online travel agents (OTAs) and metasearch providers, and there are subtle but important differences between the two.

OTAs provide a platform by which customers can search for hotels and filter them according to a number of preferences (eg. location, rating, cost, etc). The results generated by each search then allow consumers to compare prices and reviews, before making a booking on that site. The OTA on which the booking is made then receives payment for the hotel in question, and a contractually agreed commission is paid per booking. These commissions typically vary from 15-30 per cent of the VAT-inclusive value of each booking.

Metasearch platforms do not sell rooms on behalf of hotels. Instead, they consolidate prices from multiple platforms – including both hotels and OTAs – so that consumers are able to view and compare prices for their hotel of choice. Rather than earning commissions, metasearch sites sell advertising space in a similar manner to other websites. Metasearch sites, most notably TripAdvisor, also provide a location for consumer reviews. Many hotels encourage customers to utilise this facility and many consumers will make future decisions based upon the feedback they read.

There is an increasing blurring of the distinction between OTAs and metasearch sites as metasearch sites add booking functionality to their platforms. TripAdvisor's Instant Booking product is an example of this. Google is also morphing its solution to maximise its return from this sector (see below).

We understand that a large majority of customers use OTAs because they believe that by doing so they will secure the lowest price. From a consumer perspective, then, the OTA is doing its job if it helps guide them to the lowest price for a given location and class of hotel.

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Customers use DCTs because the costs of doing so are not made clear to customers. Customers do not see that if they spend £1,000 booking a hotel through an OTA, they are paying the OTA around £200 to £300 for the five minutes they are spending booking the hotel and as a result only getting a hotel room worth £700.

The other reason driving consumers to OTAs is that OTAs do not let hotels pass the efficiency of the internet on to consumers. OTAs market dominance allows them to insist on price parity clauses in their contracts with hotels, which means that even where hotels do not have to pay the high OTA costs, they cannot pass this benefit on to the consumer.

Do consumers trust DCTs?

It appears that they do, though this trust is somewhat misplaced for reasons that we will outline in answers to later questions in this questionnaire.

2. How do consumers choose which and how many DCTs to use?

Search is by far and away the most important way in which consumers are presented with choice about which OTA to use.

Paid search

Search engines (e.g. Google) effectively act as the gateway to customer interactions on the web. The first step in many online hotel booking journeys is a web search for a term such as 'hotels in Leeds'. This will return adverts paid for by other platforms and hotels, results returned by Google Hotels, Google's new accommodation platform, and some organic search results 'below the fold'. Search engine revenues come from advertising charged in relation to the positions companies want to achieve on the search engine results page (SERP). []

The importance of this avenue in attracting customers is reflected in the paid-for search arms race that has developed in recent years. As an example, search engines allow third parties to bid on a branded hotel's trademark, which has increased the CPC (cost per click) for our own brand terms even though all the investment in building these brands and customer preference has been made by branded hotels. A consumer looking for a specific hotel brand is thereby diverted to other sites that use established brands to attract consumers. It could be argued that this is the online equivalent of an individual placing, for instance, a [] sign on a hotel that has nothing to do with that brand.

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Finally, the cost of competing for the top placements for our own hotels on metasearch sites has risen due to an emphasis on the amount of the bid for placement on such sites above other criteria such as price or quality. As there is no price disparity, the metasearch site relies solely on the amount that they are paid to determine placement. This lack of price variation is of course driven by the parity clauses that OTAs insist on in their contracts with hotels. Due to their financial power and the volume that they deliver to the metasearch sites, OTAs are therefore able to out-bid hotels for placement in metasearch.

As a consequence, hotels are spending a significant share of their digital marketing budget on metasearch simply to enable themselves to be found on the internet rather than competing with other hotel brands to deliver value and experience for guests. Rather than metasearch being a low cost channel through which consumers can compare channels and deliver incremental business to hotels, OTAs are using their high commissions and marketing budgets to intermediate business that the consumer is trying to conclude with the hotel directly. Even if a consumer has a particular hotel in mind and selects that hotel in a metasearch site, the consumer is driven to the higher cost OTA channels by the metasearch site, and an unnecessary cost is borne not only by that consumer, but also all other consumers who must pay the same higher price due to parity clauses. This model works in the metasearch site's interest as the metasearch site would receive greater payment from the OTA.

Metasearch

Metasearch performs a different function to OTAs. Metasearch platforms are search aggregators and in the traditional model get compensated for referring traffic to the site where the booking is completed, whereas OTAs get compensated for concluding bookings and do not get paid for providing search and compare functionality.

In an internal study that analysed all online traffic flows, we looked at all the ways in which guests end up booking a hotel brand in the UK. For those bookings that came via [] the study found that in 80 per cent of the cases those same guests were researching hotels on one of the top metasearch sites in the week prior to making the booking. Also via an automated bidding platform, "Koddi", we found that consumers will typically book via the first website shown on a metasearch site as long as all prices were equal. Often they will also click on the hotel's direct website, if it is not the first website shown, to verify the price. The Competition Appeals Tribunal (CAT) has also acknowledged that UK consumers generally begin their journeys on metasearch.

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Hotels must then pay the metasearch site for the click and the online travel agent for the actual booking. Interestingly, when there is a visible, lower price on the hotel's website, consumers

change their behaviour. In this scenario, they no longer book via the first visible website (the OTA website) but instead tend to book via the brand company website.

'Offline' advertising

OTAs spend on offline advertising, to build brand awareness. This includes the commissioning of traditional advertising venues, including print, radio and television and outdoor billboards.

Mobile apps

There is a growing effort from OTAs and hotels to provide compelling mobile apps, which means that Google, or other search engines are bypassed, thereby reducing spend on ad-words or similar.

3. What are consumers' expectations of DCTs – for instance in terms of market coverage and the relationships between DCTs and the suppliers they list?

Consumers expect transparency about relationships between DCTs and suppliers and pricing. They expect DCTs to display unbiased, organic hotel listings, since there is no clear explanation for how they rank the hotels displayed on their website – DCTs default is to rank hotels based on how much commission they pay the DCT. Consumers should be able to see not only the absolute costs of using the DCT (maybe as a “booking fee”) but also an explanation for why some results are served to them based on pricing rather than quality. By comparison, currently Airbnb's [] service fee charge, which covers the cost of processing guest payments, is explained clearly and visible on their site.

4. What are consumers' experiences of using DCTs? Do they benefit from using them and, if so, how? What works well and what could be improved?

The benefits for consumers of platforms, including OTAs, are widely held to be the convenience, choice and price comparison functionality they offer.

While we think there is a place for platforms in the market, and that they can offer customers benefits, those benefits would be greater if they allowed consumers to make an informed choice.

For instance, DCTs should inform customers by being transparent about the way the search sort order is determined and how they make their money through commissions. UK consumers would also benefit if parity clauses are banned, as they have been in France, thereby allowing hotels to market better rates directly to the customer.

We consider this further in later answers.

Theme 2: Impact of DCTs on competition between suppliers of the services they compare

A critical test of DCTs' impact is whether they are improving or hindering competition between suppliers. A major way of improving competition is increasing engagement through reducing search costs. We plan to understand this effect and whether anything may be hindering it.

We also want to explore the relationships between DCTs and suppliers and to know whether DCTs are having effects on supplier behaviour. For example, we want to explore the impact of DCTs on the range, quality and pricing of their services, and the extent to which this leads to better or worse outcomes for consumers. We also want to understand the extent to which DCTs facilitate supplier entry or expansion.

5. What factors influence suppliers' use and choice of DCTs and why?

In the hotel sector, due to their overwhelming market dominance, [] are inevitable business partners – hotels have no choice but to work with them. The same is also true of metasearch sites, although the pricing structure of both models means that hotels are having to be selective in their use.

6. To what extent do DCTs make it easier for suppliers to enter the market, attract more consumers and engage more effectively with them?

Market entry

The emergence of OTAs should, in theory, have created a low cost route to market for hotels, allowing them to reach customers around the world, at lower cost than traditional “bricks and mortar” travel agents or even in the direct channel. Low cost distribution coupled with the ability for consumers to compare hotels easily, should lower the barriers to entry for new hotels wishing to market themselves and also level the playing field between large and small/independent hotel operators.

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We believe this ultimately has a chilling effect on market entry. While average daily rates (prices)

across the hotel industry have risen, the driver of this increase has been the growth in OTA commissions, while the “net” growth in daily rates has actually been flat, or even negative in real terms.

As a result of this, we have already seen a dramatic shift towards branded hotels in order to try to counter the impact of cost of sale in the OTA channel. Independent hotels struggle to get financing, whereas branded hotel chains have the scale to manage distribution costs more efficiently.

We expect to see greater consolidation in the hotel industry as a result. OTAs would have to rely on a shrinking pool of independent hotels and would continue to increase commissions in order to drive the same levels of profitability from that smaller pool.

Some other points to consider which we also mention later:

- As hotels become less profitable, there will be fewer hotels and may be a knock-on effect for the hospitality and tourism industry.
- There is no evidence to suggest that OTAs create demand for travel

Attracting new customers to the market?

OTAs act like a toll booth for online hotel bookings rather than genuinely attracting new customers to the market. In that regard they are an example of excessive intermediation – increasing the cost of sale without creating commensurate incremental new demand.

Customer engagement

OTAs often restrict hotels’ ability to contact guests directly by not providing the email address of the guest and not informing the hotel about the purpose of the guest’s trip. This makes it harder for the hotel to cater for guests’ needs and removes the ability of the hotel to create a direct relationship with the guest it is looking after.

Our hotels now report² that the existence of such large players also acts as a disincentive for them to innovate to reach customers as their marketing budgets cannot compete with those of the OTAs.

7. How have DCTs affected competition between suppliers? What impact has this had on the price, quality and range of products offered by suppliers?

² Survey conducted by author of this submission, 2015

Competition between hotels

The hospitality industry has traditionally been a highly competitive sector involving both branded and independent hotels, as well as other providers of accommodation such as camping, home lets, and others.

Any given hotel will have a very localised competitive situation, which may involve other hotels of a similar class in its locale, other sources of accommodation, or, in the case of resorts, may even involve hotels in different countries and continents. This creates pressure to ensure that prices remain competitive. As a result, hotels operate dynamic pricing to react to market pressures and ensure that they are offering the most competitive prices to a range of sectors.

Compared to the platforms that intermediate the online hotel market, the hotel sector is highly fragmented. In Europe, [] per cent of hotels are independent and only [] per cent of rooms belong to the top five hotel companies.³ Even the world's largest hotel companies have less than 1 per cent of the inventory displayed on the leading OTA sites.

Conversely, forecasts show that [] will control [] per cent of all online hotel bookings by 2020.⁴

One area where we believe competition between hotels has been negatively impacted by OTAs is the imposition of parity clauses which prevent hotels from offering lower prices via a direct channel than via the OTA, even though the OTA price will include a significant commission. The elimination of parity clauses would free hotels to price more competitively in the direct channel and therefore boost competition on price (and also would help focus competition on quality).

The inability of hotels to offer a lower price than that being offered via OTAs makes it harder for hotels to compete with each other, causing detriment of the customer.

Quality and innovation

We believe the amount of value in the hotel sector which is captured by OTAs through large and growing commissions has undoubtedly reduced the profitability of the sector – especially at the small and independent end of the market. This has arguably reduced investment in staff, modernisation and improvements to the hotels themselves, all to the detriment of the customer.

³ Source: []

⁴ []

8. What are the barriers, if any, to DCTs increasing competition between suppliers, and how can these be overcome?

As outlined in question 7 the primary issue is the lack of competition amongst OTAs rather than between hotels.

9. In what ways, if any, have DCTs changed suppliers' approach to consumers - for instance in terms of whether they treat consumers who use DCTs differently to those who do not?

OTAs have deliberately sought to retain their market dominance, preventing hotels from working differently with customers to encourage the customer to book with the hotel directly. The only area that hotels currently have some flexibility in is with closed user groups, e.g. loyalty programmes, although OTAs are increasingly limiting the ability of hotels to make these benefits to consumers visible to the whole market.

The growth of OTAs has changed the way we relate to customers in two ways:

- An increased emphasis on building relationships with customers through closed user groups (loyalty programmes) in an attempt to offer lower rates to customers than we can offer via an OTA.
- Book direct marketing campaigns to encourage customers to come straight to brand.com (the hotel's website).

Various hotel companies have begun to deploy a strategy of offering discounted prices to loyalty scheme members in an attempt to create a separate avenue, reaching guests directly, due to the limited room for manoeuvre in their contracts with the OTAs.

The large OTAs use a combination of robots, marketplace suppliers and manual search to continually monitor the marketplace, and react immediately to any perceived disadvantage to rate or other conditions. This reaction takes place even when hotels use their contractual rights – for example to member pricing or advertising on metasearch – or their rights under law – for example in France, where rate parity is unlawful. OTAs rely on complex algorithms to govern display on their sites but the metrics behind these algorithms are not disclosed to either the hotel or the consumer. In any event, they are continually changed at the OTAs discretion.

Individual hotels are routinely threatened by OTAs if they attempt to offer the consumer a lower price through their direct channels (even when they have been permitted to do so to closed user groups through national competition authorities' commitments processes). In a survey we conducted, a lot of hotels reported they had been threatened in this way by a DCT. This is rarely done in writing as the powerful OTAs can take unilateral retaliatory action (such as by suppressing them from appearing on their websites) to encourage a hotel to alter its strategy.

Closed user group rates from major hotel companies are now not visible on metasearch. The exception to this is in France due to its complete ban on parity clauses. In France metasearch provides all the utility of finding the right hotel (the role that OTAs purport to play) plus consumers get the benefit of visibility of lower price.

Theme 3: Competition between DCTs

We will aim to establish whether DCTs are competing effectively with each other, as well as facilitating competition between suppliers of the services they compare. If not, we will explore what may be holding back competition in any particular market.

We will explore how DCTs compete both for consumers and for suppliers. We will assess what well-functioning DCT competition looks like, and the potential for DCTs or suppliers to engage in practices that limit this.

10. In what ways do DCTs compete with each other – for instance in terms of coverage, the savings consumers can make, the services they provide, their ease of use, transparency and how they protect consumers' data?

Competition in the market is limited and concentration of OTA market power is of increasing concern. We estimate that [] will control [] per cent of all online hotel bookings by 2020.⁵

Online channels have grown their share from January 2014 to June 2016. The majority of online growth has been driven by the growth in the OTA channel. In the absence of hotels being able to differentiate between channels on price (or in some instances communicate such price differentiations) OTAs have grown faster than direct channels due to the ability of OTAs to collate commissions across many thousands of hotels and spend advertising funds on promoting only one brand (that of the OTA) and one message (a best price guarantee supported by a price parity clause). This spending power, coupled with contractual restrictions on hotels and an aggressive approach to new entrants to the market has enabled the large OTAs to dominate the online experience through their dominant market position.

Competition on price to the consumer

The existence of rate parity clauses in commercial contracts, where OTAs can insist that any price given to another OTA is also given to the contracted party, are rigidly enforced by OTAs. This means that prices offered across the market are more-or-less identical. Despite their marketing claims, it is necessarily the case that OTAs cannot offer a price advantage in relation to each other. They are not therefore able to compete in a meaningful way on price. More insidiously, OTAs also prevent hotels from undercutting them in the direct channel, inserting an artificial floor price in the market.

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⁵ []

This is a huge barrier to new entrant OTAs coming to market. The recent House of Lords report on Online Platforms and the Digital Single Market provided this insight into the challenges faced by those smaller OTAs who challenge the more established OTA (at para 118)⁶:

“As a result of this discrepancy in bargaining power, witnesses questioned whether banning price restrictions such as wide parity clauses would address the problem. Uwe Frers, owner of Berlin-based OTA Escapio, said “Sometimes Escapio gets a rate for a hotel that is lower than what is available on Booking.com. When that happens, within about six hours, Booking.com calls the hotel demanding parity. Given that Booking.com has 50 per cent market share in Germany, hotels listen and match that rate”...The British Hospitality Association told the House of Lords, in practice, “the combination of this ‘narrow rate parity’ and the hotel’s ‘Best Price Guarantee’ means that hotels cannot discount prices through rival OTAs”.”

Competition to gain inventory from hotels

The fragmentation of the hotel market and the concentration of power in the hands of just two OTA groups means that there is little competition between the OTA groups to gain room inventory by offering competitive commissions as hotels feel they must list on both in order to reach customers. A competitive market would suggest commissions would be under pressure as the players seek to attract business from the hotels. However, they have continued to rise over time.

As OTAs insist on inventory parity with the direct channel, and hotels cannot give additional inventory to any other OTA without prejudicing the lowest cost direct channel, and even if they did, their position and visibility on the two OTAs that comprise over 90% of their OTA business would be compromised. As with rate parity, OTAs have put in place mechanisms to monitor inventory parity across channels to enforce these terms.

Alternative models

The primary alternative model, metasearch, is dominated by these same [] organisations. []

⁶ <http://www.publications.parliament.uk/pa/ld201516/ldselect/ldcom/129/129.pdf>.

11. What factors influence how effectively DCTs can compete – for example, whether they can secure the necessary consumer data, supplier information or other data?

N/A

12. If there are barriers to competition between DCTs, how significant are these and how can they be overcome?

We believe the barriers to competition between OTAs are significant. In markets such as the UK, where the two largest OTAs groups take a dominant share, it is very difficult to find new OTAs that can show they could offer meaningful volume.

The new entrant would be coming into a market occupied by two powerful competitors, with equally vast advertising budgets, and would have great difficulty getting visibility. This typically means that smaller OTAs fill certain niches, such as boutique or curated hotels as a means of adding value to the customer experience.

If a hotel group were to offer a new entrant OTA a special rate, the established players would immediately demand the same. Recent history shows that those OTAs which do reach a significant scale are simply bought and consolidated into one of the larger groups.

This lack of competition means excessive intermediation and high commissions, which are ultimately passed on to the customer.

We believe that at the heart of the problem is the persistence of parity clauses in OTA contracts. The future of the online hotel booking sector will heavily depend on whether the use of parity clauses is completely banned in Europe (as is already the case in France and we understand is likely to happen soon in Italy and Austria). Not only must the direct use of parity clauses be prohibited, but the large OTAs should also be prevented from taking measures to bias the display of hotels depending on whether they have been given parity. If this is not the case, then hotels will continue to be penalised for not giving parity and a pattern of parity will return.

A ban on parity would drive intermediaries to act in the consumer interest and focus on value-added services that help consumers select the right hotel, rather than having their choices shaped for them by OTAs, who are principally focused steering the customer to whichever hotel provides the OTA with the largest commission.

This would remove the dominance of the large intermediaries and enable suppliers to connect directly with consumers, or strategically use intermediaries to help them do this. This would be a

welcome levelling of the playing field for both hotels and smaller intermediaries. Competition on price, backed by consequences for those who seek to stifle competition (for example by enforcing algorithms that effectively ensure rate parity), would enable new players to enter the market with new business models and would put the onus of proof onto online intermediaries to prove the value they add to the supply chain as consumers will have to pay for it, rather than in being an inevitable cost. Offline channels would also be put to test for their efficiencies, rather than being tied in to the pricing set across channels and so suppliers, intermediaries and consumers would all be able to play a part in ensuring that the most efficient solutions are presented transparently.

The benefits of the French ban on Parity

Hotels in France, due to a change in the law, have been able to offer consumers cheaper pricing through direct channels. []

Theme 4: The regulatory environment

There is a range of regulation of DCTs in place across our sectors of interest, from full regulation in financial services to voluntary accreditation in the telecoms and energy sectors. We will provide an overview of the different approaches to regulation being adopted and assess whether there are lessons to be learnt from comparing approaches.

13. Are there any areas of regulation or self-regulation applying to DCTs that lack clarity, certainty, consistency, or enforcement?

Aside from the issues with parity clauses, which we have outlined already, there are practices which are commonly employed by OTAs which we feel are unfair to customers and which we think should be addressed through more consistent enforcement of consumer protection rules.

- OTAs displaying 'discounts' when in fact they are misleadingly comparing the hotel's actual price for that night and a more expensive nightly rate at some point around the booking night (typically thirty days), e.g. comparing that day's price with the most expensive price 30 days prior to or following the night in question. To be clear, this cannot be and is not a discount, because it does not relate to the hotel's offered price for a given night. Rather, it misleads the consumer into believing they are getting a deal which is entirely illusory. Indeed rate parity contracts mean any site specific discounts are necessarily impossible, as other OTAs would demand the same rate.
- Search orders being altered to promote hotels which have paid extra commissions to the OTA without clear and transparent disclosure. []

- The default search results displayed by OTAs are not ordered by price or geography, but rather are those 'recommended' by the OTA. The basis of this 'recommendation' is not made clear to the customer. The fact it is heavily influenced by the commission paid by the OTA may be an unwelcome surprise to many consumers.

The Unfair Commercial Practices Directive – and its implementation in UK law – should provide protections for consumers. The UCPD was adopted in 2005 and transposed into UK law in 2008 through the Consumer Protection from Unfair Trading Regulations and Business Protection from Misleading Marketing Regulation. The UCPD covers misleading actions and misleading omissions, both of which appear to be relevant to the OTA practices outlined above. However, in practice only single instances of an infringement are dealt with, which fails to address the systemic nature of some of these practices.

We would like to see more consistent and rigorous enforcement to ensure OTAs are up front about the commercial relationships they have and the impact this has on the way they deliver services to the customer.

14. Do there appear to be any areas where DCTs may not be meeting competition or consumer protection requirements?

We have outlined our concerns in respect of consumer protection issues in Q13.

Our concerns about competition (specifically the impacts of parity clauses) are addressed in section 3. To be clear, we believe that parity clauses should be banned, as they are in France in order to allow complete freedom for hotels to set the prices they can offer the consumer through their websites. Not only would this result in lower prices for consumers, it would force OTAs to win customers based on the value they provide, rather than because they have managed to insert themselves in the distribution chain through domination of online marketing.

15. Do any aspects of regulatory approaches to DCTs need to change and, if so, why?

As discussed in Qs 13 and 14, the two key areas of change we would like to see is in the enforcement of *existing* rules and the barring of parity clauses in commercial contracts.

In relation to all of the themes and issues set out earlier, we will look at both the current situation and the effect of likely future developments in the DCT sector.

16. Finally and in relation to all of the issues above, what likely developments over the next three years should we take into account and why?

The future of the online hotel booking sector depends on whether the use of parity clauses is completely banned in Europe (as is already the case in France and is likely to be in Italy soon). Not only must the direct use of parity clauses be prohibited, but large OTAs must also be prevented from biasedly displaying hotels depending on whether they have been given parity. If this is not the case, hotels will continue to be penalised for not giving parity and a pattern of parity will return. Additionally, laws relating to unfair commercial practices (such as those national laws deriving from the Unfair Commercial Practices Directive) need to be able to provide rapid redress to those parties suffering consumer deception such as commission based sort order and misleading discounts on OTA sites.

No change

While some of the bigger chains have had some success with closed user group rates (loyalty programmes), this is a very minor inroad into the stranglehold of price parity for the industry as a whole. Closed user groups have been used as a means to navigate the restraints imposed by OTAs and attempt to show what could be available were there to be free competition. The extra barrier however is not helpful for consumers as these rates are not shown by metasearch. They would be better used to reward loyalty and improve guest experience.

While average daily rates across the hotel industry have risen, the driver has been the growth in OTA commissions, the “net” growth in daily rates is actually flat or even negative in real terms. If there is no such change, the hotel industry will continue to suffer the consequences of having to pay increasing costs for what should be the cheapest distribution channel for consumers. These costs will be passed on to consumers and ultimately consumers will become unwilling to pay such costs, reducing the amount they travel or switching to alternative travel models. Hotels will also be constrained to spending relatively little on improving the quality of their offering, marketing or on employing staff.

As a result of this we have already seen a dramatic shift towards branded hotels in order to counter the impact of OTA cost of sale. As mentioned in answer to Question 6, over several years, we would expect to see far greater consolidation in the hotel industry, as the branded hotel chains have sufficient scale to effectively manage distribution costs. OTAs would have to rely on a shrinking pool of independent hotels and are likely to continue increasing commissions in order to drive the same levels of profit. We may also see an emergence of ‘hotels’ being advertised on platforms such as AirBnB, where commission is (at present) transparent to the consumer. However, as properties advertised through AirBnB are not subject to the same regulations as traditional hotels, this could result in a larger number of properties that are less safe for consumers and cities receiving fewer taxes from the tourism industry.

Change

A ban on rate parity would level the playing field for hotels and smaller intermediaries by removing the dominance of the large intermediaries and enabling suppliers to connect directly with consumers. Competition on price, backed by consequences for those who seek to stifle competition (for example by enforcing algorithms that effectively ensure rate parity), would enable new players to enter the market with new business models and force online intermediaries to prove the value they add. Comparatively, offline channels would be tested for their efficiencies, rather than being tied in to the pricing set across channels and so suppliers, intermediaries and consumers would be able to ensure the most efficient solution is reached.

We believe that there are a number of innovations that both OTAs and metasearch companies have made and are best placed to continue to make (versus suppliers today). A ban on parity would drive intermediaries to act in the consumer interest and focus on value-added services that help consumers select the right hotel for themselves. [] paper on why people should use OTAs gives an insight into the value OTAs could add without insisting on Parity Clauses, these include focusing on meetings and events, and corporate bookings. Hotels comparatively would be able to invest in value added services, including their hotel apps to provide a suite of services to guests such as check-in, check-out, in-room remote, instant service etc, as they won't have to spend as much money on increasing auction costs on Google and metasearch sites.

In addition to smaller new players being able to enter the market free from the type of intimidation experienced by the likes of Escapio, we would expect larger companies to challenge existing players, possibly in the form of Uber, Apple's iTravel app and Facebook's graph search.

Other comments and further contact

Do you have any other comments you would like to add?

We have also submitted a confidential version of this document to the CMA, which provides some additional details.

Would you be willing for us to contact you to discuss your response?*

Yes
(please delete as appropriate)

Thank you for taking the time to complete this form.

Please email it to: comparisontools@cma.gsi.gov.uk.

Or post it to:

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