

CCA carried out a market inquiry in the on-line hotel booking sector in the Republic of Croatia

The Croatian Competition Agency (CCA) has conducted a market inquiry into the provision of on-line hotel booking services in the Republic of Croatia. The market inquiry was commenced at the end of 2019 and was carried out during 2020. All the relevant market indicators relate to the time period of 2017 and 2018.

The reason for the market inquiry into the sector concerned was, among other, the growing influence of the digital economy in the provision of accommodation services as well as globally as in the territory of the Republic of Croatia, and the effect of this trend on competition in the relevant market. In the past ten years, the European Commission and a number of national competition authorities (NCAs) and governments have intervened in the on-line hotel booking sector in the form of market studies, antitrust proceedings and legislation.

The set aims of the CCA market inquiry were to analyse the legislative framework and its implementation in the provision of on-line hotel booking services, define the main indicators of the market position in the provision of hotel on-line booking services in the Republic of Croatia and to establish the relevant facts regarding the pricing policy in the hotel on-line booking services in the Republic of Croatia. Additionally, the aim of the inquiry was to investigate into the contractual relationships between the on-line travel agents and their accommodation partners (hotel chains and hotels, boutique hotels, hostels). The CCA sector inquiry also included the comparative analysis of the relevant inquiries of the European Commission and the NCAs concerned.

The CCA sector inquiry included all the actors in the provision of hotel on-line booking and sales services, the chain including the accommodation facility, the on-line travel agent and the final customer.

For the purpose of the sector inquiry concerned and with the view to obtaining specific data and better understanding of the market concerned, the CCA sought information from the relevant authorities – the Ministry of Tourism, institutional stakeholders such as the Institute for Tourism and the Croatian Chamber of the Economy.

The market inquiry was based on a survey including all the categories of stakeholders in the relevant on-line hotel booking market in the Republic of Croatia. (28 accommodation service providers, including the largest hotel chains). In the category of the providers of the accommodation services (hotels etc.) the sample of undertakings included in the survey was defined based on the data from the publicly available data base of the Financial Agency, including the undertakings engaged in the provision of accommodation and food services (“Hotels and similar accommodation” Heading 55.10 in the National Classification of Activities). For the purpose of obtaining a better sample the undertakings concerned have been grouped depending on their size (large and medium-large undertakings) and the locality of the accommodation facilities. The geographic locations included the territory from Istria County to Dubrovnik-Neretva County, as well as the continental part of the Republic of Croatia (Zagreb and the north and south of Croatia). For the sample to be more representative the

criterion regarding the type of the accommodation (hotels, boutique hotels, hostels, spa resorts) was also included. The survey also included the on-line travel agents (OTA).

Regarding the legislative framework the market inquiry into the provision of hotel on-line booking services in the Republic of Croatia showed that the definition of hotel on-line booking services has been generally defined by the Act on the provision of tourist services, OG 130/17, 25/19, 98/19 and 42/20). At the same time the sector inquiry indicated that there is no specific rule, law or bylaw that would specifically regulate the hotel on-line booking industry. However, the consumers' protection and e-commerce provisions regulate the consumers' protection and the information society services to a certain degree. The competent authority in this area is the Ministry of the Economy, Entrepreneurship and Crafts.

With respect to the structure of the hotel on-line booking market in Croatia, the market inquiry showed that the undertaking Booking.com has been the most significant OTA, holding a market share, based on bookings made through OTAs, of [60-70] percent in 2017 and [70-80] percent in 2018 with a rising trend. Booking.com was followed by the undertaking Expedia with a market share of [20-30] percent in 2017 and [10-20] percent in 2018. These two are then followed by other OTAs or platforms, such as Hotelbeds.com, HRS, Prestigia.com, Kuoni Global Travel Services and others, whose market shares were lower than 5 percent.

For the purpose of its market inquiry into the hotel on-line booking sector in Croatia the CCA also compared its own indicators relating to OTAs market shares with the figures indicated in the recent paper of the European number one and the world number three hotel distribution technology provider in hospitality D-EDGE from October 2019. The latter involved the evaluation, on the European level, of more than 200 distribution channels and 680 hotel properties in Europe. The comparison of the results showed that the market share of the leading operator in this market, the undertaking Booking.com, but also the market shares of other hotel on-line booking service providers essentially match.

Relating to the sales channels and hotel booking services used by the accommodation partners in the Republic of Croatia, the results of the sector inquiry revealed that, as a rule, all undertakings that were included in the survey use the traditional sales channels, such as call centres, walk-in bookings and sales at the reception of the accommodation facility, as well as their own digital platforms on their websites, in other words, the direct sales channels. However, the participants of the survey reported that they generally increasingly use sales via OTAs – indirect sales channels. They reported successfully leveraging other channels – allotment purchase from a tour operator, traditional travel agencies, group rates, a global distribution system (GDS), congress and event sale (MICE - Meetings, Incentives, Conferences & Exhibitions) and DMC (Destination Management Companies).

Regarding the comparison between the accommodation facilities' own digital platforms and OTA platforms in hotel sales and booking, the CCA sector inquiry showed that in general the hotel chains and hotels made more bookings via OTAs than via their own platforms. The exception was one undertaking in the continental part of Croatia that was the only one that reported using its own platform more successfully than via OTAs. In addition, in 2018 the majority of the providers of accommodation facilities that took part in the survey recorded a

rise in both on-line sales channels – on their own web platforms and OTAs platforms in comparison with the year of 2017. The number of on-line bookings via OTAs increased by 42 percent in 2018 in comparison with 2017, whereas the rise in on-line bookings on the platforms of the accommodation facilities themselves increased 24 percent in 2018 compared with 2017.

Considering the OTA commission rates for on-line hotel bookings the results of the CCA sector inquiry showed that they differentiated between individual OTAs. Some OTAs charged the same commission rate to a hotel for the invoiced accommodation price payable by the final consumer, whereas some of OTAs apply the commission rate that ranges between certain percentages. The amount charged depends on the size of undertakings.

Furthermore, in its sector inquiry the CCA wanted to establish whether there had been an up-front number of accommodation units (rooms) within the total accommodation capacity that had been reserved by the accommodation provider for on-line booking, and if yes, how this share had been determined. All but one of the participants of the survey stated that there had been no up-front shares of accommodation capacity in the total facility capacity that would be intended or reserved for on-line booking. Some of the accommodation providers commented that this could depend on seasonality, peak season or off-season in a particular case. Regardless of the accommodation capacity plan, the undertakings in the survey responded that they made an effort to generate as many bookings as possible without agents i.e., without paying any commission fee. This means, they wanted to use their own sales channels whereas depending on the number of bookings for a particular accommodation facility in a particular period and the ongoing trends, they would temporarily stop the bookings via particular channels.

In addition, the CCA sector inquiry included a thorough analysis of the general terms of business of OTAs and the provisions contained in the agreements that OTAs concluded with the accommodation partners (hotels etc.).

The investigation into the application of the parity clauses (most-favoured nation clause - MFN) in the contracts OTAs concluded with the hotels showed that the parity clauses are a constituent part of the general terms of business and/or the agreements with accommodation partners. A number of general terms of business and contracts with OTAs contained either a wide parity clause or a narrow party clause.

The comparative approach to the EU practice included the study of all the recent and relevant activities of the European Commission and the NCAs in the on-line hotel booking market.

The comparative approach first and foremost raised the question of transparency and the stakeholder awareness of the changes to OTA parity clauses. Namely, the monitoring exercise carried out in the on-line hotel booking sector by the ECN in 2016 indicated that 47% of the hotels that responded to the electronic survey across the ten participating Member States said that they did not know that particular undertakings and the leading OTAs had recently changed or removed their parity clauses.

What is more, despite the positive changes regarding the switch of the parity clause the majority of those hotels that knew about the changes, the majority said they had not acted upon them in any way (regarding the price differentiation and in respect of room availability differentiation), in other words, they have not treated their OTA partners differently, whereas 79% of the hotels that responded to the electronic survey across the ten participating Member States said that they had not price differentiated between OTAs i.e., did not offer lower room prices than the price available on another OTA.

The CCA closes the year of 2020 by completing the first phase of the market inquiry into the on-line hotel booking sector in the Republic of Croatia. By continuing the thorough investigation in the matter concerned and given the possibility of any negative effects on competition the CCA will pursue with the monitoring of the on-line hotel booking sector at the national level. It must be noted here that any further steps in this investigation will be coordinated in the joint effort with the European Commission within the ECN with the view to ensuring consistency in the enforcement of the EU competition rules. Taking into account the above-mentioned hotel monitoring report that was published in 2017, it has been agreed at the EU level that the on-line hotel booking sector will be continuously monitored and the results of these investigations updated. To that end, the European Commission is planning to carry out a new inquiry in the sector concerned in 2021, for which the CCA and other NCAs have been invited to provide input. In that sense, the market inquiry of the CCA described above comes at the right time to serve as a starting point for the inclusion to any further monitoring exercise in the on-line hotel booking sector at the EU level. The CCA will keep informing the public about any relevant steps taken in the area concerned.