



ICPEN HANDBOOK

Unfair trading practices in digital platforms in the tourism sector

July 2020

Contents

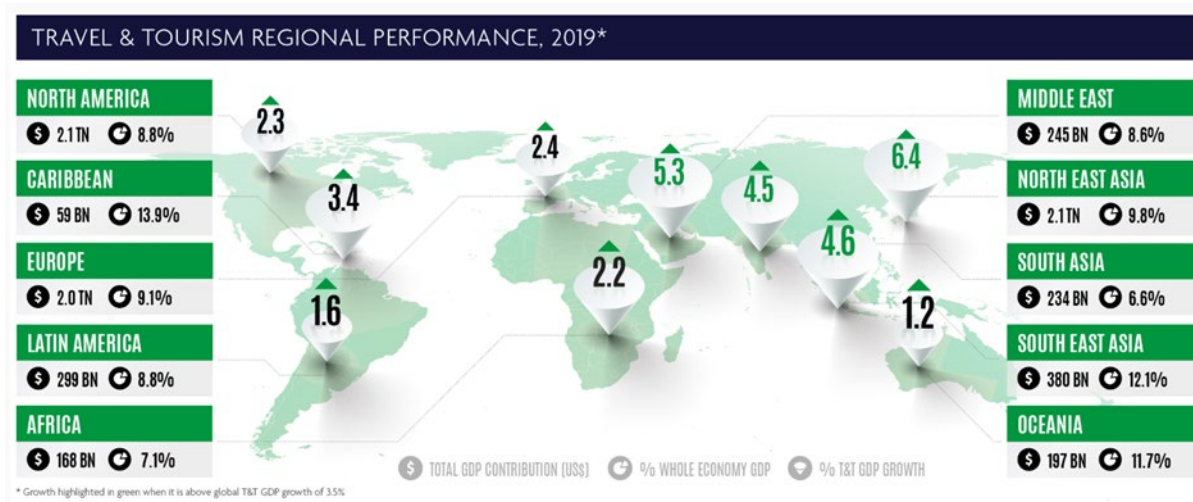
1. SUMMARY	2
1.1. Introduction	2
1.2. Why should ICPEN care about this topic?	3
1.3. What can ICPEN members do?.....	3
1.4. What is the aim of the handbook?	4
1.5. What subjects does the handbook cover?	4
1.6. What are the key findings in this handbook?	5
1.7. What is missing from this handbook?	5
1.8. Abbreviations	6
1.9. Disclaimer	6
1.10. Disclosure	7
2. UNFAIR TRADING PRACTICES	7
2.1. Introduction	7
2.2. Potential unfair practices at the choosing stage of the consumer journey.....	8
2.2.1. Misleading presentation of prices.....	8
2.2.2. Pressure selling.....	15
2.2.3. Misleading reference pricing	20
2.2.4. Lack of transparency of search ranking results.....	22
2.2.5. Use of fake/misleading reviews or suppressing genuine negative reviews	25
2.2.6. Personalised pricing	28
2.2.7. Geo-pricing and geo-blocking	29
3. Potential for unfair practices at the buying and experiencing stages of the consumer journey	31
3.1. Omission of relevant information at all stages and/or prominently in the first instance of booking.....	31
3.2. Pre-ticked boxes/opt-out practices	33
3.3. Lack of information about how the consumer’s data will be used	36
3.4. Platforms failing to take responsibility for fraudulent or deceptive practices of travel and tourism businesses	37
Annex A: Examples of ICPEN members’ relevant legal frameworks relating to potentially unfair trading practices on online tourism platforms.	39
Annex B: Links to further information relating to case studies	55
Annex C: Additional examples of ICPEN work on wider tourism issues	58
Annex D: Reading list	60

1. SUMMARY

1.1. Introduction

According to the UN World Tourism Organisation, consumers spent more than 1.7 billion USD on tourism goods and services in 2019.¹ Millions of tourists travel internationally and nationally every year. Travel and Tourism contributed (both directly and indirectly) to 8.9 trillion USD to the world's GDP (10.3%) and provided 330 million jobs globally.² Figure 1 below shows the contribution of travel and tourism to regional economies across the world.

Figure 1: Tourism and travel's contribution to the economy, 2019



Given the importance of the travel and tourism industry, it was a priority for the 2019/20 ICPEN Presidency (Colombia's Superintendence of Industry and Commerce). The UK (CMA) and Australia (ACCC) offered to co-lead a project on [unfair trading practices in digital platforms in the tourism industry](#), drawing on recent enforcement experiences against various international travel platforms.³

This handbook is the first major output under the Working Group. The Working Group will continue under the 2020/2021 Canadian Presidency, and we hope to be able to progress further our ambitions to reduce consumer harm from digital tourism platforms.

It is undoubtedly the case that the 2020 Covid-19 global pandemic has had a major impact on the tourism industry. Global travel and tourism came to a virtual standstill in the first part of the year leading to significant consumer harm. In econsumer.gov, Covid-19 travel related complaints ranked as the second highest type of report. UNCTAD estimates that the sector could lose 1.2 trillion USD as a result of the crisis.⁴

The world is slowly re-opening and the tourism industry is beginning to rebuild itself. It is important that consumer trust is restored. But some businesses may turn (or return) to deceptive or misleading practices to exploit consumers.

¹ <https://www.unwto.org/global-and-regional-tourism-performance>

² <https://wtcc.org/Research/Economic-Impact>

³ The OECD defines online platforms as 'digital services that facilitate interactions between two or more distinct but interdependent sets of users (whether firms or individuals) who interact through the service via the Internet.' *An introduction to online platforms and their role in digital transformation*, OECD, 2019.

⁴ [Covid-19 and Tourism - assessing the economic consequences](#), UNCTAD, 2020.

Online platforms will continue to play a significant role in travel and tourism as consumers begin to travel again. Now more than ever, it is important that consumers are protected from harmful trading practices.

In this handbook, we share analysis of the potentially harmful or unfair commercial practices which arise in the travel and tourism sector, the impact of those practices on consumer decision-making and the harms arising. We draw together research from other international organisations and ICPEN members' experiences of tackling consumer harms in the travel and tourism industry.

1.2. Why should ICPEN care about this topic?

The travel and tourism industry is an area where consumers cross jurisdictional boundaries and transactions inevitably transcend national borders online and in the physical world. When consumers suffer harm, it can be exceptionally difficult for them to address that harm with overseas traders.

Online travel platforms add an additional level of complexity:

- Platforms act as intermediaries. They have a significant influence on the products and services consumers buy. They may rush (or trick) customers into booking.
- Consumers do not necessarily understand how platforms operate and may make sub-optimal choices as a result.
- It may not be clear to consumers that they are contracting with third parties, and they may struggle to get redress when things go wrong.
- Platforms can be open to abuse by scammers, and it can be hard for consumers to spot these problems.

For consumer protection authorities, digital platforms in the tourism industry also present a challenge. They are international businesses, so it can be difficult to take action against them. Different laws in different jurisdictions can lead to international platforms offering lower standards of consumer protection than consumers are entitled to.

1.3. What can ICPEN members do?

The UN guidelines on Consumer Protection urge Member States to:

“ensure that their consumer protection policies are adequate to address the marketing and provision of goods and services related to tourism, including, but not limited to, travel, traveller accommodation and timeshares. *Member States should, in particular, address the cross-border challenges raised by such activity, including enforcement cooperation and information-sharing with other Member States*, and should also cooperate with the relevant stakeholders in the tourism-travel sector.” [Emphasis added]

ICPEN members, and the ICPEN Network as a whole, clearly have a role to play in delivering on the UN's principles.

The information and case studies in the following pages demonstrate that ICPEN members are already taking a broad range of different actions. For example, actions to address:

- Misleading presentation of pricing (e.g. drip pricing);
- Pressure selling;
- Transparency of search listings; and

- Pre-ticked boxes.

1.4. What is the aim of the handbook?

This Handbook is a first step in achieving the Working Group's objectives to:

1. Identify areas of consumer harm arising from the current practices of digital platforms in the tourism sector, including any sectoral or geographic variances;
2. Identify the best opportunities for ICPEN to reduce those identified areas of consumer harm, with a focus on cross-border issues;
3. Produce materials to assist ICPEN members in this intervention, possibly including sharing best practices, producing industry guidance and / or identifying a joint enforcement activity.

We hope that the information contained in this handbook will increase ICPEN members' knowledge and understanding of:

- challenges facing consumers in relation to digital tourism platforms;
- the harm (and potential harm) faced by consumers; and
- possible remedies.

1.5. What subjects does the handbook cover?

This handbook covers a range of different unfair trading practices which the Working Group identified as being relevant to digital tourism platforms. The handbook includes information about:

- legal and policy frameworks;
- consumer behaviour; and
- examples of ICPEN member's cases and activities which were provided in response to a call for information to the Network in March 2019.

In addition, the Working Group has undertaken desk research to fill gaps in our knowledge.

The handbook covers the following topics:

Misleading presentation of pricing – prices can be presented to consumers in ways that are potentially misleading, such as not presenting the full price upfront.

Pressure selling – we cover the use of scarcity tactics (such as countdown clocks and availability information) and social proof techniques (such as showing how many people are looking at particular products).

Ranking of search results – online tourism platforms act as comparison websites, but consumers may be unaware that the order in which results are placed can change depending on how much money the platform will earn from a booking.

Misleading reference pricing – consumers may believe they are getting a discount due to the way prices are presented but, in fact, they may not be getting a good deal.

Fake/misleading reviews or suppressing genuine negative reviews – in the face of overwhelming choices, consumers rely on reviews to assist in decision making. If these reviews are fake or otherwise manipulated, consumers may make the wrong choice.

Geo-pricing – a particular problem in some countries, tourists may be penalised by being charged extra based on the jurisdiction from which they are travelling. This can be particularly harmful if less affluent travellers are charged more.

Personalised pricing – Some platforms will hold, or can gather, large amounts of consumer data, to enable them to charge more to consumers who are willing to pay more for the same product.

Omission of relevant information at all stages and/or prominently in the first instance of booking – there is certain key information which consumers need to know about before booking a tourism package. In addition to needing to know the total cost of the package, consumers may need to know details about the nature of the trip, whether the people providing services are businesses or consumers and what their cancellation rights are.

Pre-ticked boxes/opt-out practices - pre-checking boxes or using a “mix and match” approach to check boxes can lead to consumers purchasing optional add-ons (e.g. travel insurance) which they do not need or which are unsuitable.

Platforms failing to take responsibility for fraudulent or deceptive practices happening on their websites - as in all other sectors, access to platforms can allow scams to proliferate. Criminals use legitimate platforms to promote products or services which do not exist. Platforms may not offer consumers protection from this kind of activity.

1.6. What are the key findings in this handbook?

There is a wide variety of potentially unfair trading practices that tourism online platforms use. However, the extent to which ICPEN members have undertaken work to examine them and the levels of tourism-specific evidence available differs.

Practices such as drip pricing, misleading reference pricing and pressure selling are the most commonly investigated practices on tourism online platforms. The harms they can cause consumers are well understood.

Less work has been done in other areas, however, such as geo-pricing and personalised pricing, both in terms of ICPEN members’ work and the literature available. These are practices where it can be difficult for individual regulators to collect evidence and these may warrant consideration for cross-border co-operation.

1.7. What is missing from this handbook?

The Working Group has tried to tackle as many issues as possible in this handbook.

However, we have not been able to be comprehensive in our efforts to describe the various harmful trading practices. We received responses to our call for information from 13 ICPEN members and partners. Our desk research could only cover materials in languages spoken by Working Group members. Our time was curtailed by the Covid-19 pandemic and the urgent calls on our resources which that entailed.

Some of the topics we would have liked to address in more detail include:

- cross-cutting issues of eco-tourism and vulnerable consumers;
- the extent of geo-pricing and geo-blocking on tourism online platforms; and
- identifying further tourism-specific examples of unfair practices common across all online platforms.

In addition, it has not been possible to capture the issues which have emerged in the travel sector as a result of the Covid-19 pandemic. Key among these are:

- customers unable to travel are struggling to get refunds for their cancelled trips; and
- customers are being misled into accepting solutions which do not respect their rights.

As different parts of the world open up, and then potentially lock down again, these sorts of issues are likely to continue (and become even more challenging) in the coming months.

We urge ICPEN members to consider updating this handbook over time, so that it covers a wider range of topics and remains useful to the Network as a whole. The Working Group may refine the handbook under the Canadian Presidency, as we work to deliver future outputs.

1.8. Abbreviations

ACCC	Australian Competition and Consumer Commission
CB	Competition Bureau Canada
CMA	Competition and Markets Authority [UK]
CPS	Consumer Protection Service [Cyprus]
CRPC	Consumer Rights Protection Centre [Latvia]
FTC	Federal Trade Commission [USA]
GVH	Hungarian Competition Authority (Gazdasági Versenyhivatal – GVH),
OFT	Office of Fair Trading [UK] (predecessor to the UK's current regulator)
SIC	Superintendence of Industry and Commerce [Colombia]

1.9. Disclaimer

This handbook is intended to facilitate knowledge sharing among ICPEN members. It is not intended as a policy statement.⁵ It has been prepared by a project working group of the following agencies from across the ICPEN network:

- Australian Competition & Consumer Commission (ACCC)
- UK Competition and Markets Authority (CMA)
- Belgian Directorate General for Economic Inspection
- Canadian Competition Bureau
- Chilean National Service of Consumers (SERNAC)
- Colombian Superintendence of Industry and Commerce (SIC)
- German Federal Ministry of Justice and Consumer Protection (BMJV)
- Netherlands Authority for Consumers and Markets (ACM)
- Peruvian National Institute for the Defence of Free Competition and the Protection of Intellectual Property (Indecopi)

⁵ [ICPEN Network Communications Principles](#).

- US Federal Trade Commission (FTC).

Each ICPEN jurisdiction has different laws, different enforcement powers and different remedies. Not every practice described in this handbook will be considered problematic or harmful in every ICPEN jurisdiction. Despite these differences, we hope ICPEN colleagues and other national regulators will find the handbook useful.

1.10. Disclosure

This handbook is for internal ICPEN network purposes only. It should not be published or shared outside of the network.⁶

2. UNFAIR TRADING PRACTICES

2.1. Introduction

There are a wide variety of potential unfair practices that exist on, or are enabled by, tourism digital platforms across the globe. These include practices that:

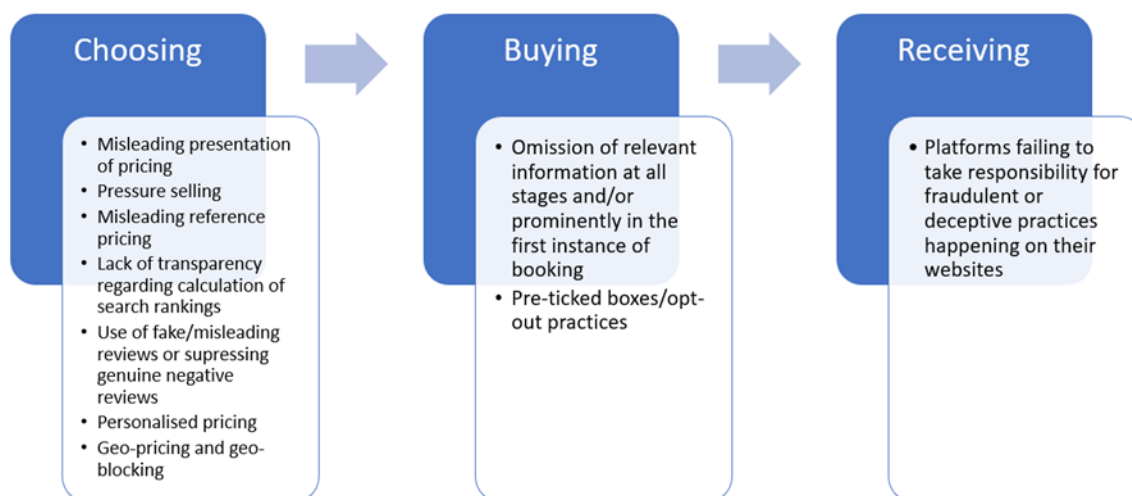
- mislead consumers;
- do not provide consumers with relevant or timely information to make informed decisions; and
- seek to pressure consumers into making decisions.

Potential unfair practices can exist at any point in the consumer's transaction, from using a digital platform to search for and buy a product or service, through to experiencing the product or service. Figure 2 below sets out the main practices that can exist at each stage of the travel and tourism transaction.

The handbook is split into two main chapters with additional annexes at the end. Chapter 2 sets out the potential unfair trading practices at the 'choosing' stage of the consumer's transaction. Chapter 3 covers those at the 'buying' and 'receiving' stages. Each potentially unfair practice contains a description and examples of the practice; sets out the key harms the practice can cause consumers; and identifies examples of work ICPEN members have done in the area.

⁶ See the [ICPEN Network Communications Principles](#) for further information about disclosure.

Figure 2: Potential unfair trading practices at each stage of the consumer travel & tourism transaction



2.2. Potential unfair practices at the choosing stage of the consumer journey

2.2.1. Misleading presentation of prices

Prices can be presented to consumers on online tourism platforms in ways that can potentially be misleading. For example, prices can be advertised as a special promotion, or prices can be presented as the full price, only for the consumer to find out later in the process that additional fees have to be paid. These practices involve misleading headline pricing, which can also be known as bait pricing and drip pricing practices.

Drip pricing refers to the practice of presenting a consumer with an element of the price upfront, and then as they move through the buying transaction, compulsory additional charges are revealed. The total price is only revealed, or can only be calculated, later in the process of the consumer's transaction, often at the booking stage.

Drip prices can be presented to consumers in a number of ways. For example, a consumer might be shown an upfront price for a hotel, but when the consumer clicks through to the purchase screen, they find additional charges have been added. Additional charges can include taxes, or a compulsory fee for hotel facilities (often known as a 'resort fee' or 'amenity fee') that has to be paid at the hotel. Figures 3 and 4 below show an example of a headline price on a digital platform where the total price is not revealed until the booking stage.

Figure 3: Presentation of prices on digital platforms – headline price, IHG website accessed 3 July 2020

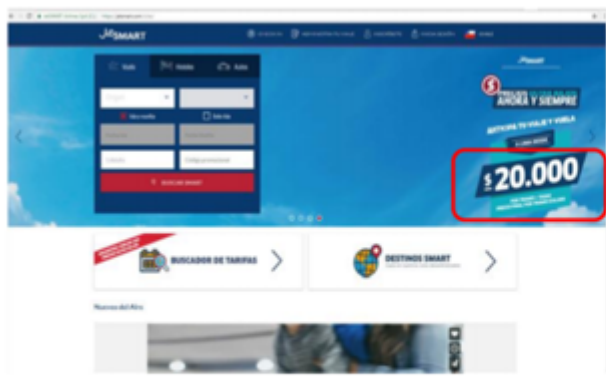


Figure 4: Presentation of prices on digital platforms – full price, IHG website captured 3 July 2020

Rate Information per Stay for 1 Room	
Fri Sep 04 2020-Sat Sep 05 2020	254.25 USD
Price for 1 room(s) and 1 night(s):	254.25 USD
Taxes:	34.02 USD
Additional Charges:	45.00 USD
Estimated Total Price:	333.27 USD

Misleading headline pricing can also refer to the practice of advertising a price which draws the consumer in but then the consumer cannot access the price or finds that additional fees have to be paid. Figures 5 and 6 below show examples of this on tourism websites. The National Consumer Service of Chile (SERNAC) brought a case against the low-cost airline JetSmart Airlines for misleading pricing information. The company was alleged to have failed to inform consumers about the full ticket price, as the price did not include boarding fees and taxes. As Figure 5 indicates, a ticket to Lima is on offer from 20,000 Chilean Peso. However, the advertised price was not actually the "final price", and consumers were charged additional fees later in the transaction process.⁷ Figure 6 shows an example of a 2-for-1 flight deal where the initial presentation indicates the price shown is for 2 people but on booking, this is shown not to be the total price.

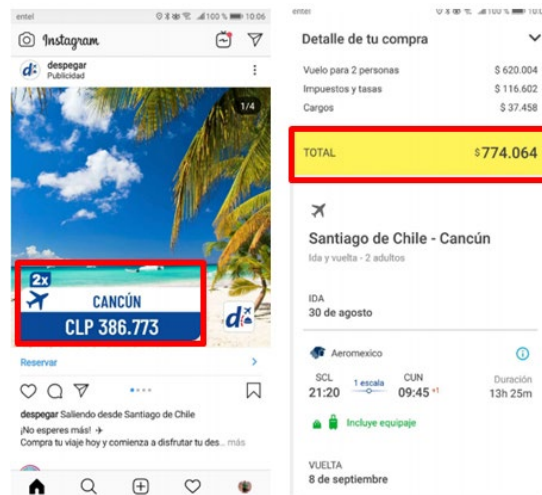
Figure 5: Misleading headline price representation



Source: Good practice guide in online advertising: protecting consumers in e-commerce, OECD Digital Economy Papers, March 2019.

⁷ Good practice guide in online advertising: protecting consumers in e-commerce, OECD Digital Economy Papers, March 2019.

Figure 6: Misleading headline price representation, SERNAC 2019



Potentially unfair practices can also include where consumers do not find out additional compulsory costs until after booking. For example, SERNAC identified in 2019 an example of a cruise booking where the consumer was only notified after booking that a daily compulsory tip, totalling \$812 USD would be charged to the credit card associated with the original purchase. This significantly increased the cost of the holiday for the consumer.

Work undertaken by a range of authorities shows that these types of practices have existed for a number of years on tourism digital platforms and continue to be widespread.

In 2015, ICPEN members recognised misleading and inadequate information disclosures related to pricing information as a key problem for online consumers. As part of an internationally co-ordinated “sweep of online pricing practices in travel and tourism, ICPEN members identified misleading or deceptive conduct such as drip pricing, false reference prices and best price claims, non-existent discounts and time-sensitive representations, and a lack of cancellation and refund information.⁸

In 2016, the European Commission and EU consumer protection authorities undertook a co-ordinated sweep of 352 price comparison and travel booking websites across the European Union. The exercise revealed a series of irregularities in online comparison tools, including in relation to misleading prices. The findings revealed that:

- In 32% of cases, the price on the page of the comparison list was not the same as the price ultimately displayed in the booking page;
- On 30% of the websites, the total price (inclusive of taxes), or the way this was calculated, was not clear;
- 21% of the websites presented special prices, which were not then available as advertised at the actual booking page.⁹

In 2019, Consumer Reports, a consumer rights organisation in the USA, ran a survey of American consumers and found that around one third of respondents had experienced hidden fees in the past two years across the hotel, air travel, and car rental sectors.¹⁰

⁸ ICPEN Internet Sweep: Online Pricing Issues, 2015 - https://icpen.org/system/files/documents/ICPEN_2015_Sweep_Results.pdf

⁹ https://ec.europa.eu/info/live-work-travel-eu/consumers/enforcement-consumer-protection/sweeps_en

¹⁰ ‘Protect yourself from hidden fees’, Article, Consumer Reports, May 29, 2019.

What are the harms that this practice can cause consumers?

It is well understood that presenting prices in a misleading way, in particular drip pricing, can have an impact on consumers.¹¹

Ultimately, drip pricing can result in consumers paying a higher price than advertised or spending more than they realise.¹² Consumer Reports, in its 2019 survey of the American general public, found that half of all respondents reported spending more than they had budgeted, because of hidden fees.¹³

This is because, as the OECD noted in 2019, ‘consumers can be deceived by inaccurate pricing information, or incomplete information about the total cost of a transaction. If businesses present to consumers... a price that is only part of the total price, they may in some circumstances mislead consumers into understanding that the displayed price is the total price’.¹⁴

This is because the presentation of prices in a certain way can trigger consumers’ behavioural biases. The UK Office for Fair Trading (the predecessor to the current UK CMA) found in 2012 that drip pricing triggered the following consumer biases:¹⁵

- Anchoring: consumers ‘anchor’ to the piece of information they think is most important – the headline price; they then fail to adjust their perception of the ‘value of the offer’ sufficiently as more costs are revealed;
- Endowment effect: consumers feel they’ve already made the decision to purchase; this creates loss aversion – consumers have committed time and effort to the search before being hit with extra charges;
- Commitment and consistency: consumers have a desire to be consistent with their previous actions so once they’ve started the process, they are less likely to walk away.

As the OECD notes, if the cost of the purchase then increases due to drip pricing, the loss aversion described above may make it more difficult for consumers to step away from the purchase.¹⁶ This could result in consumers making purchases that are not in their best interests. They may not shop around enough and they may make purchases at higher prices than they would otherwise. Drip pricing can also make it much more difficult for consumers to understand and compare final prices.¹⁷

The Federal Trade Commission’s paper on the economic analysis of hotel resort fees found that separating mandatory resort fees from posted room rates without first disclosing the total price is likely to harm consumers by increasing the search costs and cognitive costs of finding and choosing hotel accommodations.¹⁸ In this situation, a consumer’s choice is either to incur higher total search and cognitive costs or to make an incomplete, less informed decision that may result in a more costly room, or both. The analysis found that

¹¹ It can also have an impact on competition within sectors if some traders try do the ‘right thing’ but others do not and thus create a lack of a level-playing field.

¹² ‘Price Partitioning on the Internet’, Xia and Monroe, 2004.

¹³ ‘Protect yourself from hidden fees’, Article, Consumer Reports, May 29, 2019.

¹⁴ *Good practice guide in online advertising: protecting consumers in e-commerce*, OECD Digital Economy Papers, March 2019.

¹⁵ *Advertising of Prices*, Office of Fair Trading, December, 2010.

¹⁶ *Improving online disclosures with behavioural insights*, OECD Digital Economy Papers, OECD, April 2018.

¹⁷ *Improving online disclosures with behavioural insights*, OECD Digital Economy Papers, OECD, April 2018.

¹⁸ [Economic Issues – Economic Analysis of Hotel Resort Fees](#), Federal Trade Commission, January 2017.

separating resort fees from the room rate without first disclosing the total price is unlikely to result in benefits that offset the likely harm to consumers.

Examples of work undertaken by ICPEN members in this area

AirBnB

In 2019, the European Commission and EU consumer authorities required Airbnb to align its terms and conditions with EU consumer rules and be transparent on its presentation of prices. The European Commission and EU consumer authorities alleged that the presentation of Airbnb's pricing did not comply with the requirements of EU law for total prices to be shown upfront. Airbnb committed to display the total price of bookings, including any extra fees, such as service and cleaning charges. In cases where it is not possible to calculate the final price in advance, the company agreed to clearly inform consumers of the possibility of any applicable additional fees.

Airbnb Ireland and eDreams

In October 2015, the ACCC accepted court enforceable undertakings from Airbnb and eDreams. The ACCC considered that Airbnb, from November 2012, and eDreams, from January to December 2014, engaged in misleading and deceptive conduct and made misleading representations. The businesses failed to adequately disclose to consumers in Australia certain mandatory fees on key pages of one or more of their online booking platforms. This included failing to adequately disclose a mandatory Service Fee and Cleaning Fee (where applied by an accommodation host) on Search Results pages and Accommodation Listing pages on its website, mobile site and apps accessible in Australia.

These matters were raised by the ACCC as part of its commitment to addressing problematic drip pricing practices during online purchasing processes across a number of business sectors including airline, ticketing, and accommodation services.

Aer Arann, Aer Lingus Limited, BMI Baby Limited, Eastern Airways Limited, easyJet plc, Flybe Group plc, German Wings GmbH, Jet2.com Limited, Deutsche Lufthansa AG, Ryanair Limited, Thomas Cook Airlines Limited, Thomson (TUI UK Limited), Vueling Airlines S.A, Wizz Air Kft.

In 2012, the OFT was concerned that consumers were being misled about the level and/or the existence of payment card surcharges. The airlines under investigation were charging consumers an additional fee for making a payment by debit card. This fee was not included in the headline price.

In some cases, airlines offered a payment method for which there was no additional charge. Often, this "free" payment method was only available to a very small number of customers. For example, a customer would not have to pay additional charges if they used a credit card issued by the airline they were booking with. The average consumer had to pay with a card for which a fee was charged and could not therefore avoid the mandatory charges.

In July 2012, the OFT closed its investigation. Most airlines gave formal undertakings to the OFT, and others made changes to their pricing practices and these changes were accepted in lieu of undertakings by the OFT. These changes, combined with those made voluntarily by other airlines before and during the investigation, meant that free payment by debit card became the industry standard for UK passengers.

Avis/Budget, Hertz/Dollar Thrifty, Enterprise, and Discount

In 2015, the Competition Bureau Canada (CB) began a series of enforcement actions in the car rental industry to address widespread drip-pricing and other potentially misleading practices. In 2016, it entered into agreements with 4 different car rental companies including Avis/Budget, Hertz/Dollar Thrifty, Enterprise, and Discount. These agreements represented a total of \$5.95 million in administrative monetary payments. The agreements also stipulated that the companies must establish and implement corporate compliance programs to ensure they do not contravene Canada's Competition Act. The Competition Bureau found that these car rental companies advertised rental prices that were unattainable due to mandatory fees added later during the purchasing process. The Bureau also concluded that certain of the companies advertised rebates that gave the impression that consumers would get a percentage off of their total bill, but in fact the rebate was not applied to the total amount and the additional mandatory fees still had to be paid in full. Additionally, some of the car rental companies charged fees that were described as mandatory taxes or surcharges imposed by various governments but were actually imposed by the companies to recover their own costs.

Avis Budget Group, Enterprise Rent-A-Car, Hertz Europe Limited, Sixt SE and Europcar Mobility Group

In 2015, Avis Budget, Enterprise, Hertz, Sixt, and Europcar made a [series of commitments](#) to the CMA, the European Commission and other consumer enforcement authorities across Europe. These included providing customers with the total price they will pay at the start of the booking process and clearer information about any other costs, such as excess amounts and deposits. This came after a CMA review of whether the companies were complying with previous CMA commitments they made to be clearer about their prices, in some cases about charges that people can't avoid when renting a car. This found the firms were still providing unclear information on some of their websites.¹⁹

Despegar.com

In 2015, the Superintendence of Industry and Commerce (SIC) from the Republic of Colombia took action against Despegar.com, an online travel booking company that operates in many Latin American countries. The company was allegedly involved in misleading drip pricing practices by advertising travel packages with a "best price guarantee". The initial price was inconsistent with the final price, which included additional charges such as taxes. Colombian Law 300 of 1996 obliges all tourism companies to advertise the final price from the beginning of the campaign. The SIC issued an administrative order requiring the modification of misleading information.

Flight Centre Travel Group Limited

In 2019, the ACCC took action against Flight Centre, Australia's largest travel agency (which also operates globally). Flight Centre advertised promotions in store and in print newspapers offering \$250 vouchers to consumers who spent \$1500 on a holiday package. The vouchers were redeemable on their next holiday booked through Flight Centre. The ACCC had grounds to believe that these advertisements were liable to mislead because Flight Centre failed to disclose to consumers that redeeming the \$250 voucher was subject to certain conditions. These conditions included requiring consumers to book another holiday with Flight Centre worth more than \$5000. The ACCC was also concerned about the limited time frame offered for consumers to redeem the voucher, which also wasn't properly disclosed to consumers.

¹⁹ Review of short-term consumer car hire across the EU, CMA, <https://www.gov.uk/cma-cases/review-of-short-term-consumer-car-hire-across-the-eu>

Flight Centre paid \$252,000 in penalties after the ACCC issued two infringement notices for misleading advertisements promoting holiday vouchers during the 2018 Christmas and 2019 Easter periods.

FlightHub Group Inc.

In 2019, CB took action against FlightHub, an online airline flight booking company, for what appeared to be false claims on its websites. The CB was of the view that FlightHub's claims could result in hidden fees for flight-related services including seat selection and flight cancellation. The CB entered into a temporary consent agreement that prohibit FlightHub from using false or misleading marketing practices on flightHub.com and justfly.com. As part of this agreement, FlightHub will not mislead consumers into believing that the company will reserve a specific seat, or offer flexible and rebooking options, nor will it mislead consumers about the cost of flights.

Jetstar Airways Pty Ltd and Virgin Australia Airlines Pty Ltd

In November 2015, Jetstar was found to have made false or misleading representations about specific advertised airfares on its website in 2013 and its mobile site in 2014. Virgin Australia was found to have made false or misleading representations about specific advertised airfares on its mobile site in 2014. The ACCC was concerned that Jetstar and Virgin's 'drip pricing' conduct drew consumers into an online purchase process with the headline price, but failed to provide adequate disclosure of additional fees and charges that were likely to apply.

As a result, the Federal Court of Australia ordered Jetstar Airways (Jetstar) to pay a \$545,000 penalty and Virgin Australia Airlines (Virgin) to pay a \$200,000 penalty for breaches of the Australian Consumer Law.

Latvian market study of travel agents

In 2019, the Latvian CRPC examined the platforms of travel agencies, operating mostly in Baltic states, who offered bookings of airline tickets and travel packages. The CRPC inspected 11 websites and found:

- drip pricing on two websites – consumers were not informed about the final price before the booking.
- pre-ticked boxes for additional services on 2 websites; and
- on 9 websites, additional payments for paying with card or other electronic payment instruments were added which is illegal under Latvian payment services legislation.

Reservation Counter, LLC

In 2017, the FTC settled charges against a third-party hotel booking site that led consumers to mistakenly believe they were dealing directly with the hotel and did not adequately disclose that their credit cards would be charged immediately rather than when they arrived at the hotel. The settlement requires the company to make changes to ensure that consumers have the information they need to make an informed decision about their hotel booking.

Resort fees in the USA

In 2012, the FTC warned 22 online hotel booking sites that by excluding certain mandatory fees they may be violating the law by providing a deceptively low estimate of hotel room prices.

In 2017, the FTC's Bureau of Economics released a staff report examining partitioned pricing and drip pricing in hotel resort fees. It found that separating mandatory resort fees from room rates without first disclosing the total price is likely to harm consumers by increasing search and cognitive costs and/or by leading consumers to choose a more costly room.

STA Travel Pty Ltd (STA Travel)

In April 2020, Australia's Federal Court ordered STA Travel to pay \$14 million in penalties for making false or misleading claims when advertising its airline MultiFLEX Pass product. STA Travel, a national supplier of travel and tourism services, promoted the MultiFLEX Pass as allowing unlimited flight changes with no additional fees via multiple channels (Figure 7). Consumers were misled into purchasing the MultiFLEX Pass on the representation that they would not have to pay anything further for date changes to their flights. In fact, STA often charged consumers hundreds of dollars for changing their flights. In many cases, STA Travel's charges were not reflective of additional fees imposed by the airline. For example, in almost a quarter of cases where a customer was charged extra by STA Travel, the amount was more than double the additional airfare and tax imposed by the airline.

Figure 7: STA's false and misleading advertisement



2.2.2. Pressure selling

In this handbook, we use the term “pressure selling” to refer to practices aimed at pressuring consumers into making a purchase or a booking. This selling practice is about persuading or coercing the consumer to make a buying decision under a form of duress. This potential unfair practice is often presented in three main ways:

- scarcity claims – that is, creating a false impression of product availability. For example, number of hotel rooms left or the availability of certain types of hire cars;
- popularity messaging – that is, marketing cues that refer to high popularity and demand can exert an effect;

- time-limited offers – such as discounts which only last for a certain period of time or promotional pricing.

Figures 8 and 9 below illustrate the ways in which these techniques can be presented to consumers on digital tourism platforms. Banners with statements such as ‘x people are looking at this room’, ‘x people made a booking at this hotel in the last x hours’, or ‘only x rooms left’ create the impression of popularity and scarcity but can be misleading. The use of countdown clocks and text which encourages people to take advantage now can all place pressure on consumers.

The UK’s CMA found, in its investigation into online accommodation booking platforms, that banners such as those described did not always present consumers with an accurate picture of popularity and scarcity. For example, ‘only x rooms left’ could just refer to the platform’s own room inventory and not the full availability. Similarly, ‘x people made a booking at this hotel in the last x hours’ could refer to consumers booking for dates different to those that the consumer is searching for.

Figure 8: Pressure selling example on online tourist platform

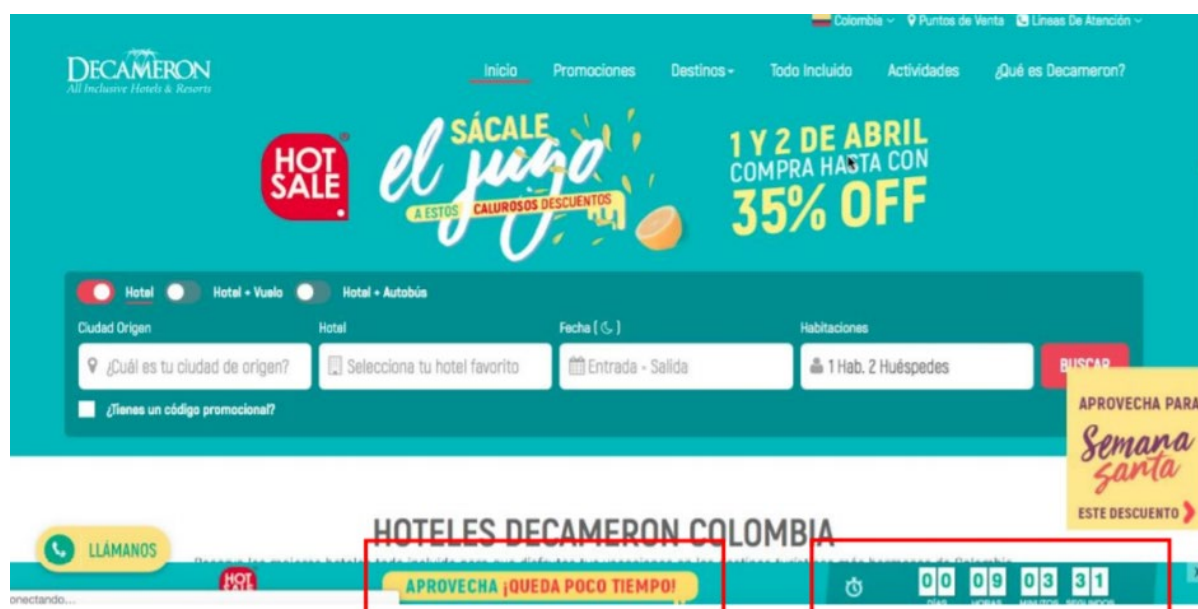
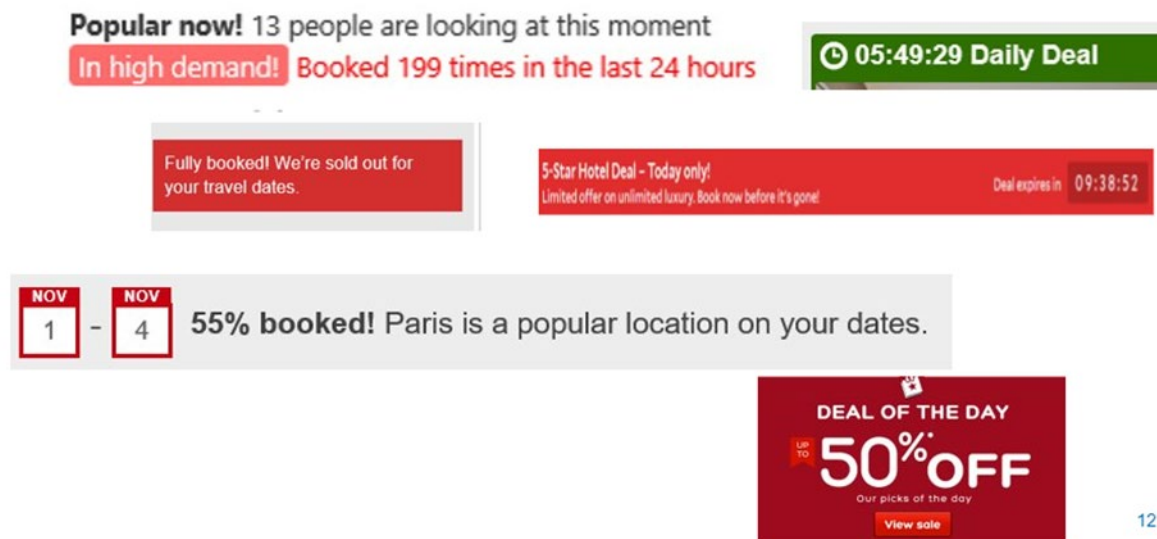


Figure 9: Pressure selling capture, CMA, 2020



As with drip pricing, a number of authorities have conducted work examining these types of practices on online platforms indicating that their use is widespread.

In 2019, the Competition and Consumer Commission of Singapore examined the online travel booking sector in Singapore and found popularity and scarcity claims were commonplace for hotel and airline websites, OTAs and metasearch engines:

- a survey of consumers found that 76% of those who had booked flights, and 72% who had booked hotel room accommodation noted that the online travel booking providers they used made claims on limited or low product supply, or made claims offering time-limited price discounts and promotions;
- an industry survey found that 73% of OTA respondents and 75% of MSE respondents informed consumers when their supply of flights or hotel rooms becomes low on their site.²⁰

What are the harms that this practice can cause consumers?

A 2018 OECD report examining how to improve online disclosures using behavioural insights identifies how scarcity messaging and time limited offers can impact upon consumers' 'loss aversion'. Consumers may fear they might miss out on a specific deal or product and so feel an increased pressure to make a purchase.²¹

As the European Commission noted in 2016, '...time-limited offers all relate to the way offers are framed, but they rely in particular on creating a sense of urgency by suggesting consumers may incur a future loss if they do not purchase the given product immediately.'²²

Social proof theory suggests that consumers deem a product to be socially more appropriate, of higher quality, and higher value when they perceive that it is popular and

²⁰ *Market Study Report, Online Travel Booking Sector in Singapore, Findings and Recommendations*, 2019 Competition and Consumer Commission of Singapore.

²¹ *Improving online disclosures with behavioural insights*, OECD Digital Economy Papers, OECD, April 2018.

²² *Consumer vulnerability across key markets in the European Union*, European Commission, January 2016.

well-approved by others. In addition to indicating that a certain product or service is approved by others, popularity cues may also suggest that it is likely to be scarce (or even unavailable) soon, thus creating a distinct sense of value.²³

In addition to the above, Ahmetoglu et al in 2010 explained the psychological effect on consumers of the scarcity principle.²⁴ They identified that consumers assign more value to items when they become less available. This is because:

- 'things that are difficult to obtain are typically more valuable, the availability of an item can serve as a short-cut cue to its quality'; and
- 'when a product becomes less available, free choice is limited or threatened, and this makes people want the product significantly more than they would have otherwise'.

Given the psychological effects pressure selling techniques can induce in consumers, they clearly have the ability to distort consumers' purchasing decisions. The OECD notes that a study conducted by the UK's Office of Fair Trading found that time limited offers resulted in 'the most purchase errors including consumers buying at the first shop they visited despite there being gains from shopping around.' While this study examined bricks and mortar shopping as opposed to online shopping, its findings are transferrable to online platforms.

Examples of work undertaken by ICPEN members in this area

Agoda, Booking.com, Ebookers, Expedia, Hotels.com and Trivago

In 2018, the CMA launched enforcement action against a number of online accommodation booking sites that it believed may be breaking UK consumer protection law. The investigation by the CMA focused on drip pricing, pressure selling, misleading discount claims, and the effect that commissions has on how hotels are ordered on websites. In 2019, Expedia, Booking.com, Agoda, Hotels.com, ebookers and trivago provided formal legal commitments to address these concerns. In relation to pressure selling techniques, the platforms agreed to change the language used and provide clarification to allow consumers to clearly see the basis for their claims.

As part of this work, the CMA also published a set of sector-wide principles in 2019 that set out the CMA's view on what online accommodation booking companies need to do to ensure that they comply with UK consumer law.²⁵ The principles cover the areas set out above. More than 25 online Hotel Booking sites, including online travel agencies, meta-search engines, hotel chains and short-term rental sites signed up to the principles and changed their practices.

Booking.com

Following dialogue between the European Commission and EU national consumer authorities in 2019, Booking.com committed to changes in the way it presents offers, discounts and prices to consumers. This includes presenting total price upfront and providing

²³ Teubner, T and Graul, A (2019), 'Only one room left! How scarcity cues affect booking intentions on hospitality platforms', *Electronic Commerce Research and Applications*, Volume 39, January – February 2020, Elsevier

²⁴ *Pricing practices: their effects on consumer behaviour and welfare*, Ahmetoglu, G et al, on behalf of OFT, March 2010.

²⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/781624/webteam_online_booking_services_principles.pdf

more information on popularity claims for consumers. Figure 10 shows the concerns set out by the EC and the changes agreed by Booking.com.²⁶

Figure 10: Booking.com EC agreed changes

Concerns raised by European Consumer Protection Cooperation (CPC) authorities	Explanation	Changes agreed by Booking.com
Transparency on search results		
Consumers do not realise that accommodation establishments that pay a specific fee to Booking.com appear in a better position in the "preferred" search results.	It must be clear for consumers that search results are influenced by fees paid by properties, as this is a commercial communication, which must be presented as so to consumers.	Booking.com will clearly show on the search results page when payments affect the ranking of accommodation. It will add a link for further explanation.
Discounts		
Booking.com proposed alternative dates for the same property and presented the price for this alternative date as a discount by using a strikethrough or terms such as "% off", or "great offer".	Prices calculated in relation to different stay dates vary in relation to seasonality and other occupancy factors. Such differences cannot be presented as a discount.	Booking.com stopped using strike-throughs or terms such as "% off", when proposing alternative offers for different dates.
Booking.com presented many properties with a "discounted" price but this was in relation to a minimum price observed over a reference period.	When showing a discount, it must represent a genuine saving for the consumer on the specific search and not in relation to a reference period where seasonality and other occupancy factors play.	Booking.com stopped using reference periods.
Displaying the total price		
Booking.com does not always include all fixed charges (e.g. local taxes) in the prices that appear in the search results.	A price quote must include all fixed charges and taxes. If they cannot be calculated in advance, consumers must be clearly informed of the possibility that extra charges may apply.	Booking.com will ensure that the price displayed is the total price, which includes all foreseeable mandatory charges.
Statements about number of visitors and limited availability		
Booking.com makes a number of statements about how many people are looking at the accommodation offer, or how many rooms are left to encourage consumers to book a certain property quickly.	Statements on number of visitors and availability must be clear and include the relevant qualifications, such as 'limited rooms on this website' or 'for the same stay dates'.	Booking.com will make it clear to consumers that any statement such as "last room available" refers only to the offer on the Booking.com platform. Booking will further ensure that those statements are true and substantiated.
Time-limited offers		
Certain prices appear on Booking.com as being offered for a limited time, even though they remain available after the expiry of the offer.	Traders cannot present an offer as being time-limited while the offer will continue to be available at the same price also afterwards.	Booking.com will ensure to present time-limited offers that really expire after the end date.
Sold-out accommodation		
Booking.com includes sold-out accommodation offers in the middle of search results, in slots that are determined by its algorithms.	Information included in the search results should correspond to the search criteria, for example, on a given date, hotels not available are not corresponding to these search criteria. As they may still be of interest to consumers who could change their dates, they should be presented in an appropriate manner.	Booking.com will present sold-out accommodation offers in a different manner that is more appropriate to the search criteria entered by the consumers.
Differentiation private – professional host		
Search results on Booking.com do not always distinguish between accommodation offered by professional and private hosts.	Under EU consumer law, there cannot be any ambiguity about the business motives of a practice and the nature of the trader. This is because whether a trader is private or professional can affect consumers' choice and their rights in case they are choosing a non-professional accommodation.	Booking.com will clearly distinguish whether a professional or private host is offering the accommodation.

Booking.com

In 2020, the Hungarian Competition Authority (Gazdasági Versenyhivatal - GVH) fined Booking.com HUF 2.5 billion (approximately 8.5 million US dollars) after an investigation into suspected use of pressure selling techniques on the website and potentially misleading claims relating to consumers' ability to cancel reservations. The proceedings also investigated whether Booking.com exercised the required level of professional care when displaying the offers of Hungarian accommodation providers on the booking.com website and on the Booking.com application, and whether it prioritises the ads of certain accommodation providers thereby influencing the consumer decision.

GVH found three main infringements:

- in television and internet advertisements promoting its services, Booking.com placed particular emphasis on the "free cancellation" of accommodation. Consumers were in fact only able to make use of this option for a limited period of time and paid a higher price than for the same accommodation without the option of "free cancellation".
- pressure selling tactics were used at each stage of the accommodation search and booking process. This took the form of the use of attention-grabbing formats (striking in colour, font size or other characteristic), and text information such as "32 more people are also watching", "Highly sought after! Booked 17 times in the last 24 hours", which gave consumers the impression that the accommodation they were viewing was subject to high demand and limited availability.
- the company has not exercised the required level of professional care when displaying the offers of Hungarian accommodation providers when listing the Széchenyi Pihenőkártya (Széchenyi Recreation Card), as a preferred means of payment. The availability of this payment method was not displayed to consumers in the same way and location for all of the accommodation establishments accepting the SZÉP Kártya, thereby possibly distorting their decisions.²⁷

2.2.3. Misleading reference pricing

The OECD defines reference pricing as 'the practice of listing a price along with a reference to another (higher) price – e.g. the pre-sale price, a competitor's price, the recommended retail price, or a post-sale price.'²⁸ As Ahmetoglu et al notes, 'a reference price, simply stated, is a price that is communicated to the consumer as being the 'normal', most commonly charged, or un-discounted price (e.g. was £199, now £169).'²⁹

Figures 11 and 12 below show how reference pricing can be displayed on tourism online platforms. Commonly, it is presented by using 'strikethroughs'. This is where a price is presented, the 'reference' price, and then is struck through and a reduced price placed next to it.

²⁶https://ec.europa.eu/info/sites/info/files/live_work_travel_in_the_eu/consumers/documents/factsheet_booking.com_commitments.pdf

²⁷ 'Gigantic fine imposed on Booking.com by the GVH', Hungarian Competition Authority.

²⁸ *Toolkit for protecting digital consumers, A resource for G20 policy makers*, OECD, 2018.

²⁹ *Pricing practices: their effects on consumer behaviour and welfare*, Ahmetoglu, G et al, on behalf of OFT, March 2010.

Figure 11: Mock example of strikethrough pricing, CMA, 2019

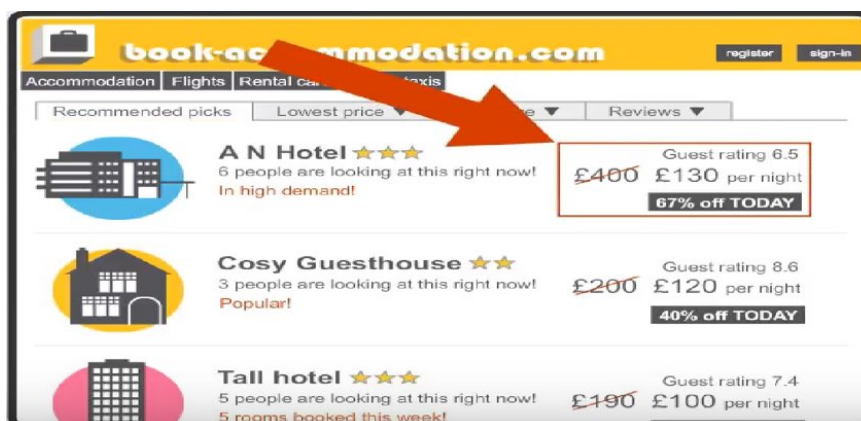
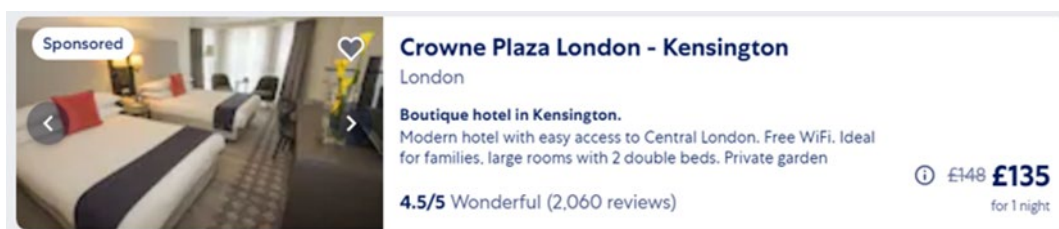


Figure 12: Strikethrough pricing, Expedia UK website



Reference pricing can be helpful to consumers where it provides an accurate basis on which to compare offers. However, reference pricing can become a potential unfair practice where it misleads consumers. The UK's CMA, in its examination of online booking accommodation platforms, identified that in many cases, price comparisons were falsely implying the consumer was getting a discount. This was because:

- The two prices being compared were not like for like, for example, a higher weekend room rate was compared with a lower weekday rate;
- The 'discounted' price had different booking conditions to the reference price;
- The reference price was not a 'real' price that a consumer would genuinely have to had to pay in circumstances that matched their search criteria.³⁰

What are the harms that this practice can cause consumers?

Consumers use online travel agents and meta-search engines because they believe these platforms help them save money.³¹ It is therefore important that any presentation that implies

³⁰ *CMA launches consumer law investigation into hotel booking sites*, Competition and Markets Authority.

³¹ *CMA Digital Comparison Tools Market Study*, CMA, September 2017.

the consumer is receiving a discount is genuine. Where consumers are misled, it can lead to them making poor choices and may result in them not getting the best deal.

Ahmetoglu et al identified a number of situations in which misleading reference pricing can harm consumers. These include where:

- the reference price is not genuine;
- the reference price was only in use, in reality, for a very short period;
- consumers cannot readily compare the reference price to an industry price, such as tourism providers own pricing; and
- consumers are comparing items that are less frequently purchased or more expensive.³²

The OECD, in its 2018 report 'Improving online disclosures with behavioural insights', noted that existing research shows that when higher reference prices are presented, consumers are willing to pay more.³³ The report found that 'a review of the literature on the effects of reference pricing concluded that the presence of a reference price increases consumers' deal valuations and purchase intentions and can lower their search intentions.'³⁴

The OECD identified three key behavioural biases that combine to drive this behaviour in consumers:

1. Anchoring – as discussed previously, this is where consumers weigh information against each other and focus heavily on one piece of information, often the price, over another. In this case, consumers focus on the reference price to help inform their decision;
2. Framing – the way in which information and options is presented can affect how the choices consumers make. For example, the use of strikethrough pricing can make one offer more attractive to a consumer than one without a strikethrough price.
3. Loss aversion – as mentioned previously, consumers do not wish to 'lose' what they perceive as a deal, and combined with other practices such as pressure selling, can influence consumers towards a certain decision.³⁵

2.2.4. Lack of transparency of search ranking results

When a consumer searches an online travel agent or meta-search engine for a service, for example to make an accommodation booking, the platform provides the consumer with a ranked list of results. This initial ranking is a default ranking set according to various criteria decided by the platform. These criteria can include the consumers' search criteria, the popularity of the service, a consumers' previous searches, and the level of commission paid to the platform by the provider. As Figure 13 below shows, the consumer is often presented with different ways in which to rank the results, for example, by price or location, but the initial default listing is that decided by the platform.

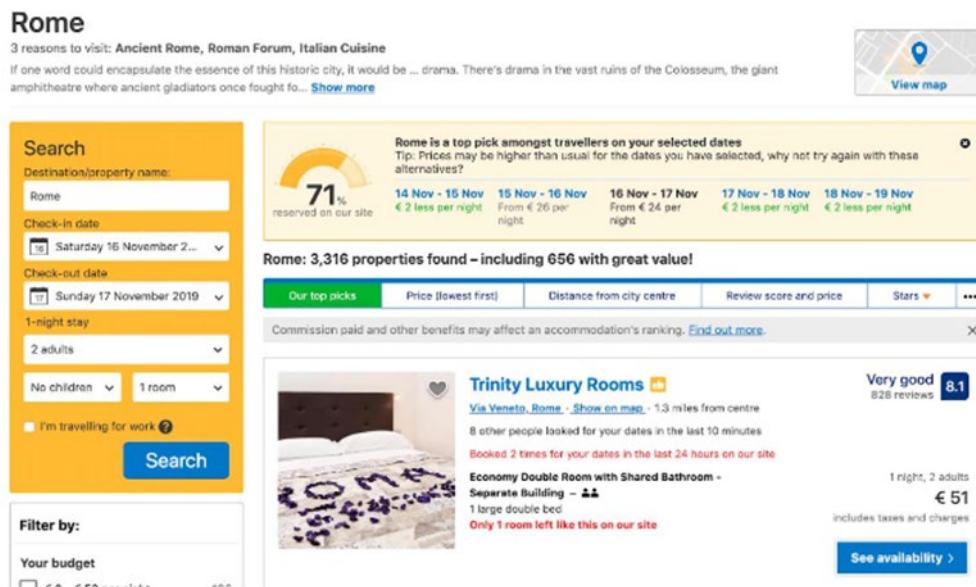
³² *Pricing practices: their effects on consumer behaviour and welfare*, Ahmetoglu, G et al, on behalf of OFT, March 2010.

³³ *Improving online disclosures with behavioural insights*, OECD Digital Economy Papers, OECD, April 2018.

³⁴ *Improving online disclosures with behavioural insights*, OECD Digital Economy Papers, OECD, April 2018.

³⁵ *Improving online disclosures with behavioural insights*, OECD Digital Economy Papers, OECD, April 2018.

Figure 13: Search rank results, Booking.com capture, 3 July 2020



This can potentially become an unfair practice when there is a lack of transparency about how the initial search results are ranked. If it is not made clear to the consumer the basis on which the rankings are calculated, consumers may not be able to easily identify that, for example, certain hotels are ranked higher than others due to the level of commission paid to the platform.

A number of ICPEN members and other organisations, such as the ACCC, CMA, and the EU's CPC, have examined this practice and identified its use on online tourism platforms. In 2019, the ACCC won a court action against the online platform Trivago relating to the lack of transparency regarding calculation of search rankings.^{36 37} Case study 1 sets out the detail of this work.

³⁶ *Australian Competition and Consumer Commission v Trivago N.V.* [2020] FCA 16 (20 January 2020) File number: VID 1034/2018.

³⁷ This case is currently being appealed by Trivago N.V..

Case study 1: ACCC v Trivago N.V. [2020] FCA 16 (20 January 2020)

The ACCC alleged that from at least December 2013, Trivago ran TV advertisements presenting its website as an impartial and objective price comparison service that would help consumers identify the cheapest prices for hotel rooms. In fact, Trivago's website prioritised advertisers who were willing to pay the highest "cost-per-click" fee to Trivago.

Trivago's website gathers deals offered by online hotel booking sites (like Expedia, Hotels.com and Booking.com) and hotel proprietors' own websites for available rooms at a hotel. It highlights one offer out of all online hotel booking sites (referred to as the 'Top Position Offer'). However, Trivago's own data showed that higher-priced room rates were selected as the Top Position Offer over alternative lower-priced offers in 66.8% of listings.

The ACCC instituted legal proceedings against Trivago alleging it made misleading hotel pricing representations in its television advertising and website, in breach of the Australian Consumer Law, including that Trivago:

- misled consumers about hotel room rates;
- represented that its website would quickly and easily help users identify the cheapest rates available for a given hotel;
- used an algorithm which placed significant weight on which online hotel booking site paid Trivago the highest cost-per-click fee in determining its website rankings and often did not highlight the cheapest rates for consumers;
- by prominently displaying a hotel offer in 'top position' on its website, Trivago represented that the offer was either the cheapest available offer or had some other extra feature that made it the best offer when this was often not the case.

On 20 January 2019, the [Federal Court of Australia](#) found Trivago's hotel room rate comparisons that used strike-through prices or text in different colours gave consumers a false impression of savings because they often compared an offer for a standard room with an offer for a luxury room at the same hotel. The Court also found that, until at least 2 July 2018, Trivago misled consumers to believe that the Trivago website provided an impartial, objective and transparent price comparison for hotel room rates.

The following is an example of Trivago's online price display taken on 1 April, 2018. For example, the \$299 deal is highlighted below, when a cheaper deal was available if a consumer clicked "More deals" (underneath the offers from other booking sites in the middle panel).



Booking Site	Room Type	Price
Expedia	AU\$299	
Wotif.com	AU\$299	
Destinia	AU\$420	
Trivago	AU\$299	20%
AMOMA.com	One-Bedroom Apartment	AU\$227
Booking.com	One-Bedroom Apartment Breakfast not included	AU\$299
Expedia	One-Bedroom Apartment Breakfast not included	AU\$299
wotif.com	One-Bedroom Apartment Breakfast not included	AU\$299
Hotels.com	One-Bedroom Apartment Breakfast not included	AU\$299

What are the harms that this practice can cause consumers?

A lack of transparency on the part of online tourism platforms regarding the basis for default search rankings, in particular, the role of commission, can harm consumers. It can lead to consumers booking a hotel they may otherwise not have booked or not getting the best deal.

This is because:

- consumers may not realise that promoted hotel listings have actually been paid for and are not recommendations made in the consumers' interest;
- consumers typically rely on the default ranking to make their purchasing decisions, and only a small percentage will re-rank or filter the results;
- consumers often book a hotel high in the list of hotels rather than scroll through a number of pages of search results to identify the best deal or property.

In addition, this practice can harm competition. Instead of competing on price and quality of service, businesses may end up paying more and more for commission. Those who can afford to pay more commission (typically bigger hotel chains) consolidate their position, while smaller businesses fall behind.

Examples of work undertaken by ICPEN members in this area

Agoda, Booking.com, Ebookers, Expedia, Hotels.com and Trivago

As part of its 2018 work on online accommodation platforms, the CMA examined the role of commission in search result rankings. They found that there was a lack of transparency regarding the role of commission in how search results were ranked. The parties agreed to provide clear, upfront information to consumers on their websites explaining that commission plays a role in rankings.

2.2.5. Use of fake/misleading reviews or suppressing genuine negative reviews

The OECD sets out the concept of online consumer reviews as 'a consumer's opinion and/or experience of a product, service or business. Reviews can be found on specialist websites and on the websites of many retailers, retail platforms, booking agents, and trusted trader schemes.'³⁸ In terms of online tourism platforms, reviews can be found on specific tourism ratings websites, such as TripAdvisor, and a range of wider tourism platforms that display user reviews from differing sources as part of their website presentation to consumers.

Figures 14 and 15 below shows what this can look like on tourism online platforms.

³⁸ *Understanding online consumer ratings and reviews*, OECD digital economy papers, September 2019.

Figure 14: TripAdvisor capture, 3 July 2020

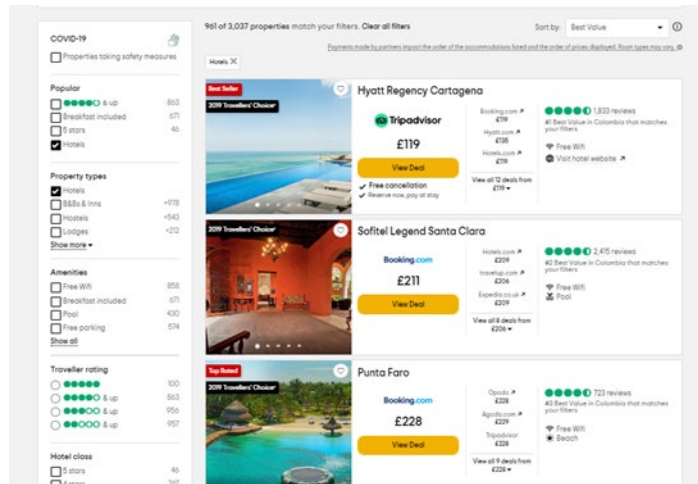
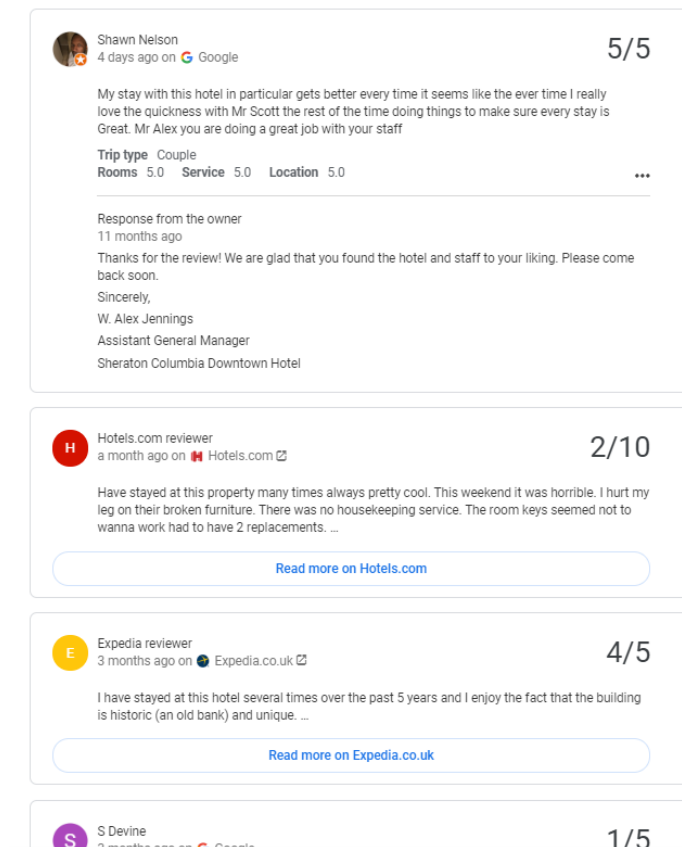


Figure 15: Google.com capture, 3 July 2020



Various surveys have identified that consumers increasingly use online reviews to inform their purchasing decisions. For example:

- An OECD survey in 2017 found that around 70% of consumers ‘see ratings and reviews as crucial or very important to their transactions’;

- A survey by the European Association for the Co-ordination of Consumer Representation in Standardisation in 2015 found that 77% of consumers consult online reviews before making a purchase.^{39 40}

There are a number of benefits to both consumers and online platforms that online reviews can bring, which are all applicable to tourism online platforms. The OECD identifies the main benefits as:

- Helping consumers to narrow their search;
- Helping consumers make better and faster purchasing decisions;
- Allowing the sharing of opinions and experiences among peers;
- Helping build trust in peer platform markets (such as AirBnB).⁴¹

However, online platforms, including tourism platforms, can use online reviews in a way which can become a potential unfair practice. This is due to the use of fake or misleading reviews, where a provider or an incentivised consumer/agent poses as a real consumer and posts positive feedback of their own services; or suppressing negative reviews posted by consumers about a business. As the OECD points out, these types of practices are contrary to OECD recommendations.⁴² ICPEN published guidelines for online reviews and endorsements in 2016.⁴³

What are the harms that this practice can cause consumers?

Where platforms do not present an accurate and complete picture to consumers, then consumers may make purchasing decisions based on that incomplete picture. Consumers may be misled into thinking that the reviews are genuine. They may then purchase a product that is not of the quality expected or may not best suit their needs.

Examples of ICPEN members work in this area ⁴⁴

Bachcare

The Commerce Commission in New Zealand successfully litigated its first online review action in 2019 against Bachcare, a holiday rental-accommodation management company that manages the bookings and subsequent stays of tourists in short-term accommodation. Between 1 June 2017 and 28 September 2018, the Commerce Commission found that Bachcare edited customer reviews published on its website, removing negative comments about the rental properties listed by the company, and/or Bachcare's maintenance and management of properties. Bachcare misled consumers through the creation of artificially positive impressions about certain properties and its services. Bachcare's conduct included: deleting comments regarding the cleanliness and amenities of properties, reviewers' experience of properties; and withholding from publication reviews for properties to which customers had given a star rating of lower than 3.5 out of 5. This conduct meant that no listed property at the time could display a customer rating lower than 3.5 stars out of 5.

³⁹ *Understanding online consumer ratings and reviews*, OECD digital economy papers, September 2019, p.11.

⁴⁰ IGE Consumer July 2018, Agenda item 3e. Report of the working groups on electronic commerce and on the protection of vulnerable and disadvantaged consumers, as well as on the latest developments in legal and institutional frameworks - The challenge of protecting EU consumers in global online markets, November 2017, BEUC, verbraucherzentrale Bundesverband.

⁴¹ *Understanding online consumer ratings and reviews*, OECD digital economy papers, September 2019.

⁴² *Understanding online consumer ratings and reviews*, OECD digital economy papers, September 2019.

⁴³ <https://icpen.org/news/741>.

⁴⁴ Although not specifically tourism-related, ICPEN members have also done wider work examining the use of fake reviews. For example, the ACM - <https://www.acm.nl/en/publications/acm-takes-action-against-trade-fake-reviews-and-fake-likes>.

Meriton Serviced Apartments

Meriton offered serviced apartment accommodation in New South Wales and Queensland in Australia. TripAdvisor operates a website in Australia which provides free online reviews of accommodation services and other travel-related content generated by travellers. TripAdvisor also offer providers a 'review express' service where consumers receive an invite to leave a review.

In November 2017, the Australian Federal Court held that from November 2014 to October 2015, Meriton engaged in misleading or deceptive conduct by taking steps to prevent guests it suspected would give an unfavourable review from receiving TripAdvisor's 'Review Express'⁴⁵ prompt email. Meriton did so by:

- inserting additional letters into guests' email addresses provided to TripAdvisor so that the prompt email never reached the guest; or
- not sending guest email addresses to TripAdvisor.

The Court found that on several occasions Meriton engaged in this conduct in respect of the majority of guests staying at one of its hotels during periods when there were infrastructure or service problems, such as no hot water or a lift not working. The Court also held that Meriton's conduct was liable to mislead the public as to the nature, characteristics and suitability of purpose of its accommodation services.

2.2.6. Personalised pricing

Personalised pricing is the 'tailoring' of a price to a consumer based on the expectation of what the consumer will ultimately pay for the good or service. Tailoring is influenced by the consumer's digital profile or footprint.

The OECD, in a 2018 report into personalised pricing, stated that the topic of personalised pricing has become increasingly topical due to the growth of the digital economy and the increasing collection of detailed personal data by online platforms.⁴⁶ However, it also notes that there is a current lack of evidence about the extent of the practice, and this may be partly due to difficulties in detecting personalised pricing.

The European Commission, in an examination into personalised pricing in the European Union in 2018, cited the following examples in the tourism sector:

- A controlled experiment identified some cases of sites altering product prices which could be linked to personal characteristics, for example, on one travel website ("Cheaptickets.com/Orbitz.com") logged-in users received different prices on 5% of hotels; and on one travel website ("Travelocity.com") it was measured that prices fell by \$15 on 5% of hotels (or on approx. 3 out of 50 per page) for Apple iOS users;
- A 2016 study for the German Advisory Council for Consumer Affairs on personalised pricing in online markets 'found that personalised pricing occurs in the tourism sector, based on user-related features. For example, luxury users paid more than non-luxury ones (e.g. €2,230 versus €2,196). Furthermore, personalised pricing was found in the airlines sector and for holiday packages, where Windows users consistently recorded lower prices compared to Apple users;

⁴⁵ TripAdvisor offers a service called 'Review Express'. Participating accommodation providers provide TripAdvisor with email addresses of recent customers who have consented to their details being passed on. TripAdvisor then emails the customers, prompting them to submit a review of their recent experience with that business.

⁴⁶ *Personalised pricing in the digital era: Background note by the Secretariat*, OECD, 28 November 2018.

- A consumer market study by the European Commission found airline and hotel booking websites showed relatively higher evidence of price personalisation compared to websites selling TVs and shoes. For example, of the 34 websites showing price personalisation, 19 were for airline tickets, and 9 were for hotel bookings.⁴⁷

What are the harms that this practice can cause consumers?

Personalised pricing practices can, in theory, benefit consumers if it matches them to products that best suit their needs, lowers price offers, and reduces their search costs. However, where, as the OECD notes, the practice is lacking in transparency or limits consumer choice, then it can potentially become unfair.⁴⁸

The European Commission identified in a consumer survey in 2018, that potentially vulnerable consumers, for example, older people, those inexperienced in online shopping, or those with low educational attainment, reported lower overall self-reported awareness of personalisation.⁴⁹ This means that some consumers may be unaware of this practice and are, effectively, unable to opt-out from it. This, in turn, may negatively affect their purchasing decisions. The UK's Citizen Advice reported that people tend to dislike personalised pricing. 84 % of people surveyed said they felt uncomfortable with personalised pricing in essential service markets and 3 in 4 people said that if they encountered personalised pricing, they wouldn't trust their provider.⁵⁰

2.2.7. Geo-pricing and geo-blocking

Geo-pricing and geo-blocking are both practices that use the consumer's geographical location as their basis:

- Geo-pricing is where consumers in different locations are presented with different prices for e.g. the same holiday destination;
- Geo-blocking is a method used to prevent consumers in certain geographical areas from accessing particular websites.

This is an area that does not appear to have been widely examined and existing literature is minimal.

A study by the European Commission in 2016 does, however, indicate the potential problems caused by both geo-pricing and geo-blocking. The survey reported that EU consumers had experienced obstacles to shopping cross-border, including being denied access to foreign websites, foreign sellers refusing to sell to them; and being charged a higher price based on their country of residence.⁵¹

What are the harms that this practice can cause consumers?

⁴⁷ *Consumer market study on online market segmentation through personalised pricing/offers in the European Union*, European Commission, June 2018 – Executive Summary.

⁴⁸ *Consumer market study on online market segmentation through personalised pricing/offers in the European Union*, European Commission, June 2018 – Executive Summary.

⁴⁹ *Consumer market study on online market segmentation through personalised pricing/offers in the European Union*, European Commission, June 2018 – Executive Summary.

⁵⁰ *A price of one's own – An investigation into personalised pricing in essential markets*, Citizens Advice, Morgan Wild and Marini Thorne, August 2018.

⁵¹ IGE Consumer July 2018, Agenda item 3e. Report of the working groups on electronic commerce and on the protection of vulnerable and disadvantaged consumers, as well as on the latest developments in legal and institutional frameworks - The challenge of protecting EU consumers in global online markets, November 2017, BEUC, verbraucherzentrale Bundesverband.

Geo-pricing and geo-blocking practices can create price discrimination against consumers, for example, consumers can only access restricted prices because they cannot access other markets or prices are 'tailored' for certain markets. Consumers can find it difficult to compare offers and may be unable to assess the actual availability of tourist services, e.g. hotel rooms. This means they may be unable to get the best deal and may be paying higher prices for services. Case study 2 is an example of tour operator and hotel chain geo-pricing and blocking practices which, while falling under EU anti-trust law, affected consumers.

Case study 2: **MELIÁ** ⁵²

In 2020, the European Commission fined the Spanish hotel group Meliá for price discrimination against consumers of different EU member states.

Depending on their place of residence, consumers were offered different prices and terms and conditions when booking their holidays with the group through particular tour operators. The investigation covered agreements between the four largest European tour operators (Kuoni, REWE, Thomas Cook and TUI) and Melia hotel group. The Commission determined that Meliá's general terms and conditions contained a clause in contracts with tour operators according to which those contracts applied only to reservations made by consumers resident in certain specified countries.

Tour operators were prevented from offering hotel accommodation freely throughout the EEA and they could not respond to direct requests from consumers residing outside their assigned regions. It was therefore impossible for consumers to obtain a complete picture of the hotel accommodation available or to book hotel rooms at the lowest price with a tour operator in another member state.

⁵² [Prosecution of price discrimination and geo-blocking on the rise](#), Simmons & Simmons

3. Potential for unfair practices at the buying and experiencing stages of the consumer journey

3.1. Omission of relevant information at all stages and/or prominently in the first instance of booking

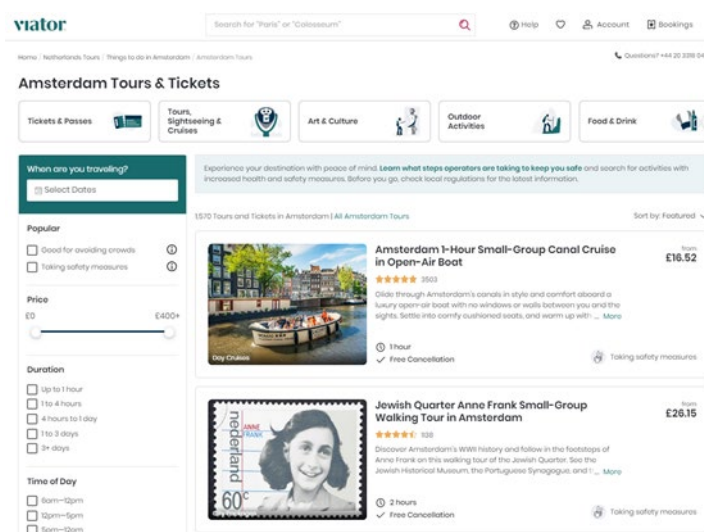
It is important that consumers are able to make informed purchasing decisions. As Consumers International states 'consumers buying online should have information about products and services presented in a clear, accurate, easily accessible and conspicuous way so that they can make informed choices.'⁵³

Many of the potential unfair trading practices already covered in this handbook contain issues relating to the provision and presentation of relevant information to consumers. In addition to these are two further key points:

- platforms providing consumers with a clear understanding of their rights; and
- consumers knowing where and from whom they are buying.

In relation to the latter point, this review identified some examples on online tourism platforms where it was potentially not clear to consumers who, and where, they were buying from. Figure 16 below shows an example of this.

Figure 16: Viator.com captured, 3 July 2020



In the example in Figure 16, there is no information pre-purchase on who the actual tourism service provider is or who the consumer is entering into a purchase with.

In relation to platforms providing consumers with a clear understanding of their rights, online tourism platforms can have the same issues as online platforms in other sectors. These include lack of prominent and easily accessible terms and conditions, and terms and conditions that are not easily understandable.

⁵³ *The consumer checklist for an international e-commerce deal*, Consumers International.

ICPEN members and other organisations have done a range of work across online platforms examining online platform's terms and conditions. In February 2018, the network carried out a coordinated 'sweep' action of terms and conditions in consumer contracts for digital products and services. Participating ICPEN members identified concerns with T&Cs, and associated practices which could harm consumers and may not comply with national consumer laws.⁵⁴ The issues included consumers not being given clear and up-front information about the product or service, lengthy T&C's, and vague wording and technical jargon.⁵⁵

In 2016, the Norwegian Consumer Council undertook an exercise to read out on air the terms and conditions of the 33 most popular apps the average Norwegian has on their mobile phone. The exercise took 31 hours, 49 minutes and 11 seconds.⁵⁶

UNCTAD reported in 2018 that 'it is unrealistic to expect consumers to have the time to read the T&C's of every online retailer they do business with, let alone understand them. However, this means that they often enter contracts without being fully aware of the conditions they have agreed to be legally bound by.'⁵⁷

In some areas, there are laws in place that set out the specific information consumers must be provided in online purchases and that contracts must be written in easily understandable language; however, these laws are not universally in place.⁵⁸

What are the harms that this practice can cause consumers?

The OECD's '*Toolkit for protecting digital consumers*' sets out a number of harms that can arise from online terms and conditions lacking in clarity or accessibility.⁵⁹ These include:

- High search costs – if online terms and conditions are not transparent or are long or complex, the time it takes consumers to compare offers or find out what to do if something goes wrong, can be lengthy;
- Hidden fees and costs – consumers may not realise they have agreed to additional charges if the terms and conditions are not clear;
- Selecting the wrong product/service – consumers may fail to purchase the product that best suits their needs if they do not read or understand the terms and conditions;
- Disclosure of personal data – consumers may unwittingly agree to share their personal information or agree to their data being used if privacy notices are unclear or misleading.

Examples of work ICPEN members have done in this area:

Competition and Consumer Protection Commission market study:

⁵⁴ *Joint Open Letter to Businesses in the Digital Economy on the Importance of Standard Terms and Conditions for Consumers*, ICPEN.

⁵⁵ <https://icpen.org/news/902>

⁵⁶ <https://www.bbc.co.uk/news/world-europe-36378215>

⁵⁷ Source: IGE Consumer July 2018, Agenda item 3e. Report of the working groups on electronic commerce and on the protection of vulnerable and disadvantaged consumers, as well as on the latest developments in legal and institutional frameworks - The challenge of protecting EU consumers in global online markets, November 2017, BEUC, verbraucherzentrale Bundesverband.

⁵⁸ For example, the European Union's Consumer Rights Directive (2011/83/EU) explains the information that has to be provided to customers, whether they are buying something in a physical shop, online or off-premises (for example, at their own homes or somewhere else that is not the seller's usual place of business).

⁵⁹ *Toolkit for protecting digital consumers, A resource for G20 policy makers*, OECD, 2018.

In 2017, the Zambian Competition and Consumer Protection Commission undertook a study in the aviation sector on the refunding of air tickets. The aim of the study was to understand operations in the aviation sector because of its relevance to the Zambian economy. The study established that the information customers were provided on terms and conditions was neither full nor sufficient. For example, some customers did not know about the charges that were due on refund claims until they had received such charges. The study also identified that most agents had fixed charges for ticket refunds even though each ticket had its own terms and conditions.

The challenge that the Commission faced during the study was getting in touch and collecting information from the International Air Transport Association (IATA). IATA was identified as an important stakeholder in the study.

The Commission recommended a number of remedies. These included, (1) that all airlines should have a standard time frame in which a customer can be refunded or can cancel a flight; and (2) that terms and conditions should also be communicated verbally and in full during the purchase of tickets and should be posted on the website. Specific terms and conditions for each ticket should also be printed on respective tickets. This is to try and ensure consumers are aware of their rights and obligations and to further reduce the information gap between operators and consumers.

3.2. Pre-ticked boxes/opt-out practices

When a consumer reaches the purchasing stage on an online tourism platform, they can often be presented with a range of additional options before they make the final purchase. This can include, for example, adding baggage to a flight booking, or purchasing the providers' own or recommended travel insurance. These additional options can be useful to consumers. However, depending on how they are presented, they can also potentially be detrimental to consumers.

Where consumers are automatically opted-in to all optional charges or services and have to actively opt-out, this is commonly known as pre-ticked boxes or opt-out practices. This practice is potentially unfair. Figure 17 below shows an example of an opt-out practice in relation to receiving further marketing information.

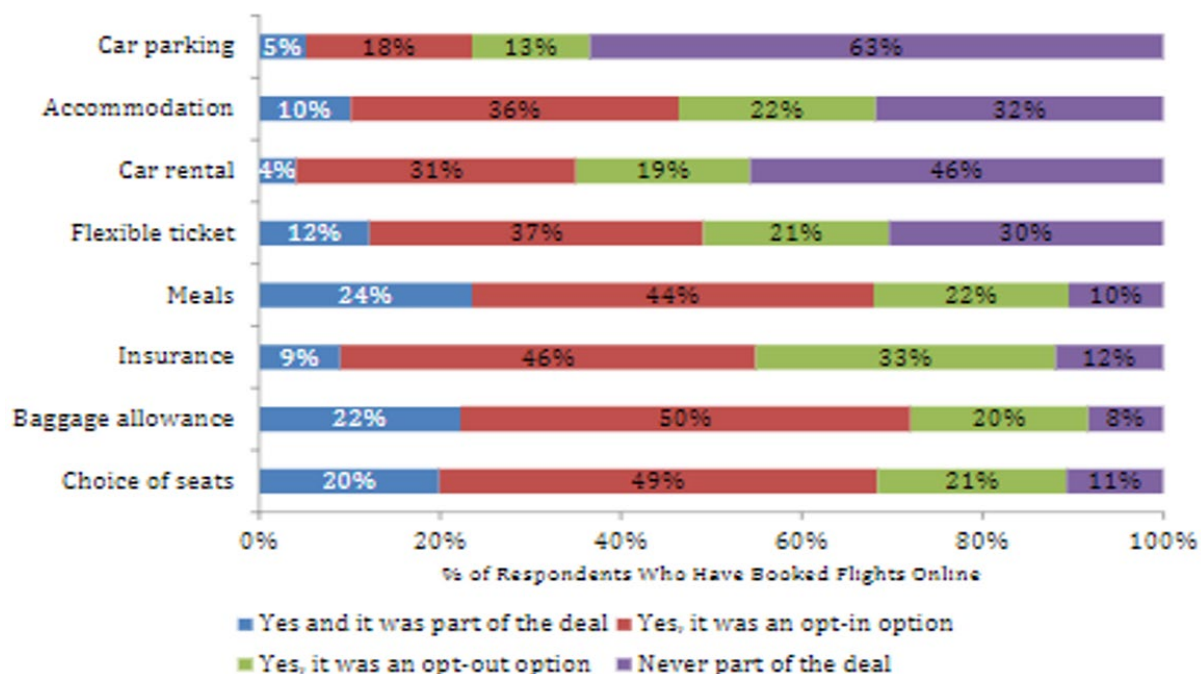
Figure 17: Pre-checked box (car rental company), captured 17 July 2020

The image shows a screenshot of a car rental booking form. The form includes fields for City*, Post Code, Country* (set to United Kingdom), Flight Number (Important), and Driver's Age* (with options 18-24, 25-70, and 71+). A 'Continue' button is visible. To the right, there are promotional banners for 'No Card Fees' and '24 hour support'. At the bottom, a red box highlights a pre-checked checkbox with the text: 'Yes, I'd like to receive exclusive offers and information on products and services that may be of interest to me by email or phone. Customers can opt-out or unsubscribe at any time.' Below this, it says 'By submitting this form, I consent to the site Privacy policy'. The footer contains links for 'Company', 'Follow us', 'Subscribe and save', and 'Call us'.

In 2019, Singapore's Competition and Consumer Commission examined opt-out practices as part of a market study into the online travel booking sector in Singapore. A survey of

consumers found that, when booking flights on online platforms, up to one third of consumers experienced opt-out practices. Figure 18 below shows the types of additional options that consumers were presented with and the extent to which these were opt-out or opt-in.

Figure 18: Consumer add-on experiences, Consumer Survey, Competition and Consumer Commission Singapore, 2019



What are the harms that this practice can cause consumers?

As discussed previously, the way in which information is ‘framed’ can significantly affect how consumers make decisions. When presented with default options, such as pre-ticked boxes, consumers tend to stick with the default options. This is because:

- people may stick with the default option because they believe that the company which has set it recommends the default as the best course of action;
- people choose inaction to action and react more strongly to adverse outcomes when they are a result of action than inaction;
- there is also a preference to maintain the current or previous state of affairs. People may stick with the default out of a desire to maintain the status quo.⁶⁰

What this means is that consumers may stick with a default option that is not in their best interest to deliver optimal outcomes. They may end up paying for services they don’t need or that don’t match their needs.

The OECD cites an example of how effective pre-ticked boxes can be in changing consumer behaviour – ‘A large national railroad in Europe made a small change to its website so that seat reservations would be included automatically with ticket purchases (at an additional cost of one to two euros), unless the customer unchecked a box on the online booking form.

⁶⁰ Pricing practices: their effects on consumer behaviour and welfare, Ahmetoglu, G et al, on behalf of OFT, March 2010.

Whereas 9% of tickets included reservations before the change, 47% did after, earning the railroad an additional [US dollars] \$40 million annually.’⁶¹

Examples of work that ICPEN members have done in this area

AirAsia Berhad

In 2016, New Zealand’s Commerce Commission became aware that Malaysian airline, AirAsia was advertising a price that did not include a pre-selected checked baggage allowance. It was also charging a payment processing fee that was unavoidable for New Zealand consumers. The Commerce Commission was of the view that in preselecting luggage at an extra cost to the advertised flight price, and not properly disclosing a mandatory processing fee, AirAsia was likely to have misled consumers over the price of its services. The Commission issued AirAsia with a formal warning. As a result, AirAsia agreed to change its online booking process to sell checked baggage on an ‘opt in’ basis and change how it disclosed its processing fee when selling flight tickets to New Zealand customers. It also introduced an alternative payment method that enables customers to avoid the fee entirely.

Jetstar

In 2015, New Zealand’s Commerce Commission called for all New Zealand businesses to end the use of opt out pricing, with Air New Zealand, House of Travel, Dash Tickets, Ticket Direct and Naked Bus all agreeing to do so. Jetstar declined to change its approach at that time. The Commission was of the view that the practice of preselecting optional extra services during an online sales process can mislead consumers over the price of the service they are buying and can cause them to purchase something they did not intend to. Jetstar had been preselecting luggage, seat selection and travel insurance during its online booking process, at an extra cost to the advertised flight price. Customers needed to ‘opt out’ of these extras if they did not want them. Jetstar gave court enforceable undertakings to the Commerce Commission ending its preselection of ‘opt out’ services.

Virgin Australia and Jetstar

The ACCC worked with various airlines to address the issue of pre-selection of travel insurance products where customers had to ‘opt-out’ or ‘unselect’ the product while purchasing airline tickets online. The ACCC engaged with domestic airlines to seek their agreement to cease the practice of pre-selection. The ACCC was concerned that the ‘opt-out’ model means that a number of consumers inadvertently end up paying for unwanted ‘pre-ticked’ extras.

In December 2016, Virgin Australia and Jetstar stopped the pre-selection of travel insurance on their respective online booking platform following discussions with the ACCC. Virgin Australia’s customers will no longer have to ‘de-select’ travel insurance if they do not wish to purchase it. Instead, customers of Virgin Australia will select travel insurance if they wish to purchase it. Jetstar customers will no longer pre-select checked baggage, seat selection, travel insurance and charity donations on its online booking platforms.

⁶¹ *Improving online disclosures with behavioural insights*, OECD Digital Economy Papers, OECD, April 2018.

3.3. Lack of information about how the consumer's data will be used

The OECD, in its *Good practice guide on consumer data*, identifies consumers' personal data as any information related to an identified or identifiable consumer.⁶² This can include a wide range of data, including:

- User generated content, including blogs and commentary, photos or videos.
- Activity or behavioural data, including what people search for and look at on the Internet, what people buy online, as well as how much and how they pay;
- Social data, including contacts and friends on social networking sites;
- Locational data, including residential addresses, GPS and geo-location (e.g. from cellular mobile phones), or IP address;
- Demographic data, including age, gender, race, income, sexual preference, and political affiliation;
- Identifying data of an official nature, including name, financial information and account numbers, health information, national health or social security numbers, and police records.

Online platforms, including tourism platforms, have increasing capabilities to collect, store and share large quantities of consumers' personal data. On tourism platforms, consumers can wittingly or unwittingly share their personal data at a number of stages. For example, consumers provide data:

- when they sign up to join platforms' loyalty schemes or to reveal 'secret prices';
- when they conduct searches on platforms, businesses can collect location, activity or behavioural data;
- when they leave reviews on websites; and
- when they purchase services.

UNCTAD noted in 2018 that 'the extent to which wider data is gathered by the vendor is unclear. Search habits, purchase history, location and internet service provider address are collected in ways that can be difficult for consumers to understand or prevent.'⁶³ It is therefore important that platforms provide clear and relevant information about how a consumer's data will be used. Where platforms do not do this, it can potentially be an unfair practice due to the harm it can cause.

What are the harms that this practice can cause consumers?

Consumers can lack an understanding of what data is collected about them and what their rights over their own data. Consumers International found in a consumer survey that almost three-quarters of consumers surveyed, 72%, did not know what information is collected about them by companies online, and almost one third of respondents, 31%, did not what rights they have in relation to their own data.⁶⁴

⁶² *Good practice guide on consumer data*, OECD Digital Economy Papers, September 2019.

⁶³ *Manual on consumer protection 2017*, UNCTAD, 2018.

⁶⁴ *Building a digital world consumers can trust*, Consumers International.

Yet the data collected by online platforms about consumers can significantly shape consumers' experiences of these platforms. As a 2019 report to the G20 International conference on consumer policy points out, 'while businesses can use these [consumer] profiles to personalise offers in ways that benefit consumers, they could equally use them to discriminate against consumers in terms of pricing, the offers presented, or the way that information is presented (i.e. to take advantage of behavioural biases). While personalisation may be economically efficient, and may benefit (some) consumers, it may also lead to an unfair commercial practice.'⁶⁵ By not clearly informing consumers of how their data will be used, the consumers cannot opt-out or in to the above practices that may have resulted from the collection and use of their data.

3.4. Platforms failing to take responsibility for fraudulent or deceptive practices of travel and tourism businesses

As Consumers International notes, 'online peer-to-peer markets and platforms have improved choice and convenience for many consumers...whether you are calling a cab, finding a date, renting a holiday home, buying a gift or putting up a shelf - people around the world are increasingly turning to apps and websites that can connect them to other individuals who can offer what they need, rather than going to a traditional company.'⁶⁶

However, the nature of these transactions means that there can also be increased risk to consumers, if platforms do not take responsibility for fraudulent or deceptive practices happening on their websites. If this is the case, this can potentially be an unfair practice.

Fraudulent or deceptive practices can take place on both more 'traditional' tourism online platforms and also peer platforms, such as AirBnB for accommodation and experiences, or Turo, a peer car rental platform. These can include, for example, accommodation or other services not being as described or not existing (see Figure 19 below for examples of headlines) or financial details being stolen or passed on to third parties.

Figure 19: AirBnB negative headlines



⁶⁵ *Challenges to consumer policy in the digital age, Background report, G20 International conference on consumer policy, 2019.*

⁶⁶ *Digital ID in peer to peer markets, Consumers International, December 2017.*

What are the harms that this practice can cause consumers?

Fraudulent or deceptive practices can cause consumers considerable harm. This can include:

- risks to personal safety – if there is a lack of verified identification or reliable background checks, consumers may be at risk of threats or assaults;
- exploitation of financial details – consumers may pay for a service that doesn't exist or overpay;
- unauthorised use of personal data;
- detriment caused by services that over promise and under deliver or do not exist; and
- availability of complaints and redress mechanisms to address the harm caused.

These types of harm can occur across many different online sectors. When fraudulent or deceptive practices occur on tourism platforms, the harm could be increased. This consumer may be away from home, unable to speak the local language and unfamiliar with local police or other arrangements for helping them. The consumer may face significant additional costs to remedy the situation, such as having to book replacement accommodation or flights at short notice.

If online tourism platforms are unwilling to accept liability for fraudulent or deceptive practices used by businesses on their website (for example, by claiming that they are simply hosting and advert), this can add to the harm experienced by the consumer.

Where harm does occur, it is important that platforms have a clear and robust complaints and redress procedure. The OECD's Toolkit for protecting digital consumers notes that 'dispute resolution and redress mechanisms that are both effective and accessible, are vital for helping consumers to resolve problems and rectify detriments that result from the above risks. The absence of such mechanisms can act as a barrier to consumers engaging with e-commerce and, if coupled with unresolved negative experiences, can lead consumers to disengage.'⁶⁷

⁶⁷ *Toolkit for protecting digital consumers*, A resource for G20 policy makers, OECD, 2018.

Annex A: Examples of ICPEN members' relevant legal frameworks relating to potentially unfair trading practices on online tourism platforms.

AUSTRALIA

Australian Consumer Law (ACL)

The ACL aims to protect consumers and ensure fair trading in Australia. The ACL came into force on 1 January 2011 and replaced the Trade Practices Act 1974 and previous Commonwealth, state and territory consumer protection legislation. It is contained in Schedule 2 to the Competition and Consumer Act 2010 (Cth) (CCA) and is applied as a law of each state and territory by state or territory legislation. Under the ACL, consumers have the same protections, and businesses have the same obligations and responsibilities, across Australia. Australian courts and tribunals (including those of the states and territories) can enforce the ACL. The regulators of the ACL are:

- the Australian Competition and Consumer Commission (ACCC), in respect of conduct engaged in by corporations, and conduct involving the use of postal, telephonic and internet services; and
- state and territory consumer protection agencies, in respect of conduct engaged in by persons carrying on a business in, or connected with, the respective state or territory.

Some of the consumer protection provisions in the ACL are mirrored in the Australian Securities and Investments Commission Act 2001 (Cth) (ASIC Act) in relation to financial products and services. The Australian Securities and Investments Commission (ASIC) is responsible for administering and enforcing the ASIC Act.

Misleading or deceptive conduct: ACL reference: sections 18–19

It is unlawful for a business to make statements in trade or commerce that:

- are misleading or deceptive; or
- are likely to mislead or deceive.

False or misleading representations ACL reference: sections 29–34, 151–160

Failing to disclose relevant information, promises, opinions and predictions can also be misleading or deceptive. In most cases, businesses cannot rely on small print and disclaimers as an excuse for misleading or deceptive conduct. A limited exemption applies to businesses (mostly media outlets) who make representations in certain circumstances in the course of carrying on a business of providing information.

It is unlawful for a business to make false or misleading representations about goods or services when supplying, offering to supply, or promoting those goods or services. Whether a representation is false or misleading will depend on the circumstances of the particular case. Making false or misleading representations is an offence.

Unconscionable conduct ACL reference: Part 2–2

Generally, 'unconscionable conduct' is conduct that defies good conscience, within the context of society's norms and expectations. For conduct to be unconscionable, it needs to

be more than merely unfair or unreasonable. A business must not act unconscionably when:

- supplying goods or services to a consumer or business
- acquiring goods or services from a consumer or business.

ACL penalty regime

The maximum penalties per breach of the ACL including unconscionable conduct, making false or misleading representations, and supplying consumer goods or certain services that do not comply with safety standards or which are banned:

For corporations, will be the greater of:

- \$10,000,000
- three times the value of the benefit received, or
- 10% of annual turnover in preceding 12 months, if court cannot determine benefit obtained from the offence.

For individuals:

- \$500,000.

Infringement Notices:

Where the ACCC has reasonable grounds to believe a person has breached the provisions of the ACL it can issue an Infringement Notice in respect of the following:

- unconscionable conduct
- false or misleading conduct
- pyramid selling
- certain product safety and product information provisions
- failure to respond to a substantiation notice
- false or misleading information in response to a substantiation notice.

The penalty amount in each infringement notice will vary, depending on the alleged contravention, but in most cases is fixed at:

- \$13,320 for a corporation (or \$133,200 for a listed corporation) and
- \$2,664 for an individual

for each alleged contravention.

In connection with substantiation notices, the infringement notice penalty amount for failure to comply with a substantiation notice is:

- \$6,660 for a corporation and
- \$1,332 for an individual.

The infringement notice penalty amount for providing false or misleading information, under a substantiation notice, is \$11 100 for a corporation and \$2 220 for an individual.

Sectoral guidance

Travel & accommodation – an industry guide to the [Australian Consumer Law](#)

[Tourism Australia](#)

BELGIUM

Book VI of the Code of Economic Law, with a chapter dedicated to distance contracts. This is primarily a transposition of European directives

This legislation is enforced by our agency, the Federal Public Service Economy, but also by consumer associations such as the ECC Belgium (<https://www.eccbelgium.be/>), and consumer protection organisations such as Test-Aankoop (<https://www.test-aankoop.be/>).

CANADA

Laws that specifically address potentially harmful trading practices:

In 2019, the Canadian Transportation Agency (CTA) introduced new regulations called the *Air Passenger Protection Regulations (APPR)*. These regulations, which became effective in December 2019, include provisions that protect consumers in various ways with respect to airline services.

Of particular interest are new regulations that ensure consumers are aware of airlines' terms and conditions and that such information is accessible and conveyed in clear, simple, and concise language.

Carriers are required to provide passengers with information on key terms and conditions of carriage on all digital platforms they use to sell tickets, and on all itinerary-related documents the carrier issues to the passenger. They must also include a written notice with prescribed text regarding standards of treatment and compensation under the APPR, as well as direct passengers to the carrier or the CTA's website. Information other than the prescribed text may be provided through hyperlinks. Carriers are also expected to ensure third parties selling tickets on their behalf provide passengers with this information, where feasible. For flights to and from Canada, the carrier must post the written notice described above at certain key locations in the airport.

The APPR apply to all flights to, from and within Canada, including connecting flights. This includes certain charter flights on which one or more seats are for resale to the public, namely charter flights within Canada and flights to and from Canada that are a part of a charter that originated in Canada.

The CTA also enforces the *Air Transportation Regulations*, which, among other things, requires that airlines use all-inclusive pricing to ensure that prices are transparent to consumers.

More information about the APPR can be found here:

<https://otc-cta.gc.ca/eng/air-passenger-protection-regulations-regulatory-impact-analysis-statement>

More information about the CTA's regulations regarding all-inclusive air price advertising can be found here:

<https://otc-cta.gc.ca/eng/all-inclusive-air-price-advertising>

Laws of general application

The federal and provincial governments share responsibility for consumer protection in Canada. In general, federal laws focus on ensuring consumers a safe, fair and competitive marketplace. Provincial and territorial laws focus on the terms on which businesses transact

with consumers. Both the federal and provincial laws could apply to unfair trading practices in digital platforms in the tourism sector. For example:

The Competition Act

The Competition Bureau administers and enforces the *Competition Act*. The *Competition Act* is a federal law governing most business conduct in Canada. It contains both criminal and civil provisions aimed at preventing anticompetitive practices in the marketplace.

The *Competition Act* contains provisions addressing false or misleading representations and deceptive marketing practices in promoting the supply or use of a product or any business interest. All representations, in any form whatever, that are false or misleading in a material respect are subject to the *Competition Act*. If a representation could influence a consumer to buy or use the product or service advertised, it is material. To determine whether a representation is false or misleading, the courts consider the "general impression" it conveys, as well as its literal meaning.

The *Competition Act* provides two adjudicative regimes to address false or misleading representations and deceptive marketing practices.

Under the criminal regime, the general provision prohibits all materially false or misleading representations made knowingly or recklessly. Other provisions specifically forbid deceptive telemarketing, deceptive notices of winning a prize, double ticketing, and schemes of pyramid selling. The multilevel marketing provisions prohibit certain types of representations relating to compensation.

Under the civil regime, the general provision prohibits all materially false or misleading representations. Other provisions specifically prohibit performance representations that are not based on adequate and proper tests, misleading warranties and guarantees, false or misleading ordinary selling price representations, untrue, misleading or unauthorized use of tests and testimonials, bait and switch selling, and the sale of a product above its advertised price. The promotional contest provisions prohibit contests that do not disclose required information.

Privacy laws

Canada also has various federal and provincial privacy laws that could apply to how digital platforms, in the tourism sector or otherwise, collect and use consumer data. For example, the Office of the Privacy Commissioner enforces the *Personal Information Protection and Electronic Documents Act* (PIPEDA), which is federal law that deals with how businesses handle personal information.

PIPEDA sets the ground rules for how private-sector organizations collect, use, and disclose personal information in the course of for-profit, commercial activities across Canada.

More information about PIPEDA can be found at: https://www.priv.gc.ca/en/privacy-topics/privacy-laws-in-canada/the-personal-information-protection-and-electronic-documents-act-pipeda/pipeda_brief/

Provincial and territorial consumer protection legislation

The consumer protection statutes in most Canadian provinces – including Alberta, British Columbia, Ontario and Quebec – set out requirements for specific types of consumer agreements and prohibit a range of “unfair” practices in any consumer transaction.

Unfair business practices can include misleading and unconscionable representations (where a seller takes advantage of consumer who cannot protect his or her own interests, subjects a consumer to undue pressure, or knows that a transaction is excessively one-sided or adverse to the consumer, for example).

More information about the roles of federal and provincial/territorial consumer protection laws in Canada can be found at the following hyperlink: <https://ic.gc.ca/eic/site/oca-bc.nsf/eng/ca02965.html>

Agencies that enforce laws aimed at protecting consumers from unfair trading practices:

As mentioned above, the Canadian Transportation Agency (CTA) enforces the *Air Passenger Protection Regulations (APPR)* and the *Air Transportation Regulations*. The CTA’s website can be found at:

<https://www.otc-cta.gc.ca/eng/splashify-splash>

Links to the websites of Canada’s provincial and territorial consumer protection agencies can be found at:

<https://ic.gc.ca/eic/site/oca-bc.nsf/eng/ca02965.html>

The Office of the Privacy Commissioner of Canada (OPC) oversees compliance with the *Privacy Act* and the *Personal Information Protection and Electronic Documents Act*. The OPC’s website can be found at:

<https://www.priv.gc.ca/en/>

Business initiatives, self or co-regulatory measures

The Association of Canadian Travel Agencies (ACTA) is a national member-based trade association that represents the retail travel sector of Canada’s tourism industry. According to its website, it has more than 12,000 members across Canada representing more than 80% of the travel business booked through a travel agency in Canada. Members must adhere to ACTA’S Code of Ethics and Standards, which encourages members to provide a high quality of travel services to the public and stipulates guidelines relating to transparency, integrity, and confidentiality, among other things.

More information about ACTA’s code of conduct can be found here: <https://www.acta.ca/code-of-ethics>

CHILE

Consumer Protection Law (LPDC for its abbreviation in Spanish)

In March 2019, a new Law 21,081 on Consumer Protection Rights came into force. This law expands SERNAC's authority in consumer protection issues while increasing fines for conduct contrary to citizens' interests. In this sense, and to inform consumers about their rights in the tourism sector, SERNAC has organized media awareness campaigns to prevent misconduct on holidays and vacations against national and international tourists.

COLOMBIA

See previous section for tourism-specific regulations.

Consumer protection laws

Law 1480 of 2011 "Whereby the Consumer Statute is issued", enacted by the Congress of the Republic.

Title II of the Sole Circular of 2001 issued by the Superintendence of Industry and Commerce.

Consumer protection laws in the tourism sector

Law 300 of 1996, "By which the general law of tourism is issued, and other provisions are dictated" enacted by the Congress of the Republic.

Decree 1074 of 2015 "Whereby the Single Regulatory Decree for the Trade, Industry and Tourism Sector is issued", promulgated by the Ministry of Trade, Industry and Tourism.

Agencies that enforce laws aimed at protecting consumers

In Colombia, there is the Superintendence of Ports and Transport is responsible for, amongst other things, the inspection, surveillance and control of the rights of air and land transport consumers.

<https://www.supertransporte.gov.co/>

Business initiatives, self or co-regulatory measures

At present, the Superintendence of Industry and Commerce is designing a preventive model in the tourism sector, whose objective is to generate efficient solutions that allow the safeguarding of the rights of the consumers of tourist services and to eliminate the recidivism of the commonly sanctioned conducts. The model is based on preventive surveillance and the principles of self-regulation and correspondence.

Similarly, in the country there are private trade associations, such as Colombian Association of Travel and Tourism Agencies, Colombian Association of Hotel and Tourism, Colombian Time-Share Association, which carry out acts of self-regulation in each tourism sector, to regulate free competition and market standards.

CYPRUS

Relevant laws that apply

Consumer protection law - The unfair business-to-consumer commercial practices in the internal market law, enforced by the government Consumer Protection Service.

Unfair terms legislation - The unfair terms in consumer contracts law, enforced by the government Consumer Protection Service.

ESTONIA

Relevant laws that apply

[Consumer Protection Act](#)- sets rules on unfair commercial practices, enforced by [Consumer Protection and Technical Regulatory Authority](#)

[Law of Obligations Act](#)- sets rules on unfair terms in consumer contracts, enforced by Consumer Protection and Technical Regulatory Authority

[Information Society Services Act](#)- sets out requirements for information society service providers, enforced by Consumer Protection and Technical Regulatory Authority

[Advertising Act](#)- sets out the general requirements, prohibitions and restrictions established for advertising, enforced by Consumer Protection and Technical Regulatory Authority

[Personal Data Protection Act](#)- regulates protection of natural persons upon processing of personal data, enforced by [Data Protection Inspectorate](#)

GERMANY

Specific laws to address potentially harmful trading practices

German Civil Code (BGB), Section 651a – 651y (esp. Section 651d in connection with Article 250 Section 1 – 3 Introductory Act to the Civil Code, EGBGB)

<https://www.gesetze-im-internet.de/bgb/index.html#BJNR001950896BJNE066807123> (only in German)

<https://www.gesetze-im-internet.de/bgbeg/index.html#BJNR006049896BJNE242500123> (only in German)

Relevant laws that apply

German Civil Code (BGB), Section 307, 308, 309, 310 – unfair terms

https://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p0939

Regulation (EC) No 1008/2008 of 24 September 2008 on common rules for the operation of air services in the Community (Recast)

- <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32008R1008&from=DE>
- Regulation EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=D>

Right of action:

- Act against Unfair Competition, Section 8: https://www.gesetze-im-internet.de/englisch_uwg/englisch_uwg.html#p0115 ;
- Act Relating to Actions for Injunctions in the Case of Breaches of Consumer Protection and Other Laws (UKlaG), Section 1 and 2 <http://www.gesetze-im-internet.de/uklag/> (only in German)

In terms of comparative law, the following EU Directives are particularly relevant:

- Directive 2005/29/EC of 11 May 2005 ‘Unfair Commercial Practices Directive’ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005L0029&from=DE>

- o See also the Guidance on the implementation/application of directive 2005/29/EC on unfair commercial practices
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016SC0163&from=EN>
- Directive 2011/83/EU of 25 October 2011 on consumer rights <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0083&from=DE>
- Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts
- Directive (EU) 2015/2302 of 25 November 2015 on package travel and linked travel arrangements - <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L2302&from=EN>
- Directive (EU) 2019/2161 of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU as regards the better enforcement and modernisation of Union consumer protection rules - <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L2161&from=DE>

Agencies that enforce laws

In Germany, qualified entities have the right to launch proceedings. A list of the associations entitled to bring a lawsuit is issued by the Bundesamt für Justiz (BfJ – Federal Office of Justice, https://www.bundesjustizamt.de/DE/Home/homepage_node.html)

(https://www.bundesjustizamt.de/DE/SharedDocs/Publikationen/Verbraucherschutz/Lste_qu_alifizierter_Einrichtungen.html)

Business initiatives, self or co-regulatory measures

<https://soep-online.de/>

LATVIA

Relevant laws that apply

We apply general consumer legislation on consumer rights and unfair commercial practices. The Consumer Rights Protection Centre (state agency) supervises and applies consumer protection legislation.

NEW ZEALAND

Relevant laws that apply

NZ Com is responsible for enforcing the Fair Trading Act 1986, which contain provisions about misleading conduct and unfair contract terms.

NORWAY

Specific laws

The Norwegian marketing control act from 2009 is enforced by the Norwegian consumer authority and will apply to potentially harmful trading practices in digital platforms in the tourism industry.

PANAMA

Specific laws

Law 45 of October 31, 2007, "Dictates Rules for Consumer Protection and Defense of Competition", amended by Law 29 of June 2, 2008.

(Ley 45 de 31 de Octubre de 2007, "Dicta Normas de Proteccion al Consumidor y Defensa de la Competencia", modificada por la Ley 29 de 2 de Junio del 2008.)

<http://www.acodeco.gob.pa/acodeco/view.php?arbol=2&sec=1&pagi=0>

POLAND

Relevant laws

The law on consumer rights (EU-harmonised) imposes a general obligation on businesses to provide consumers with detailed and reliable information on the product marketed and sold. The non-compliance to this obligation may result in an administrative proceeding by the OCCP and fine up to 10% of yearly income.

The law on unfair commercial practices (EU-harmonised) provides for a prohibition of using misleading practices and failures, and of aggressive commercial practices. The sanctions for non-compliance are of triple nature: (i) administrative proceeding & fine by the OCCP up to 10% of the yearly income, (ii) individual consumer claim to court seeking for damages, (iii) claim to court introduced by a consumer NGO in general interest, seeking for prohibition of use of a given unfair commercial practice. In (ii) and (iii) a reversed burden of proof applies, which means that it is to the trader to prove that their commercial practice was not unfair.

The use of unfair contractual clauses is also prohibited by the (EU-harmonised) law on consumer rights. There are two possible paths: (i) administrative proceeding & fine by the OCCP, (ii) individual claim to court by the consumer – party to the contract containing the clause. The outcome is respectively: prohibition of use of the clause towards any of the clients of the trader (erga omnes) or declaring the given clause null and void (inter parties) which in certain cases may lead to the collapse of the contract.

Please kindly note that the condition necessary for the OCCP to take legal steps is always the general or public interest. We only take actions when a unspecified group of consumers is (or may be) targeted with a given practice. We do not deal with individual cases.

SWITZERLAND

Specific laws

The [Federal act on unfair competition](#) (available in French, German and Italian) is a general law against unfair commercial practices (it protects every actor of the market, not only consumers), which includes a general clause that aims any practice which is misleading or otherwise contrary to the rules of good faith and which affects relations between competitors or between suppliers and customers and special dispositions that forbid specific practices (i.e. misleading or incorrect information, slander, directory scams, cold calls, abusive general conditions,...).

There is also a disposition specifically concerning the e-commerce (its source of inspiration is the [Directive 2000/31/EC on electronic commerce](#)) with information requirements for the service provider/seller (name, address, e-mail to contact him). The service provider must also inform the consumer on the different technical steps to follow to conclude the

contract, on the technical means for identifying and correcting input error prior to the placing of the order and he has to confirm the conclusion of the contract per e-mail.

Relevant laws

SECO can file a civil action and/or a criminal complaint if collective interest are concerned (that means if a certain number of persons are harmed by the unfair practices of the same company). SECO has the position and rights of a plaintiff.

The prosecutor instructs the case and then it is up to the criminal court to decide whether the law on unfair competition is violated. If a civil action has been introduced it will be a civil court that orders an injunction.

Business initiatives, self or co-regulatory measures

The [Ombudsman of the swiss travel industry](#) is a private and independent entity that mediates and helps consumers to find a solution out of court when they have issues with the swiss travel industry. The Ombudsman has no possibilities to intervene or mediate in cases, which involve foreign tour operators. The Ombudsman has no authority to give instructions for settlement.

UNITED STATES

The Federal Trade Commission Act (15 U.S.C. § 45) prohibits unfair and deceptive practices in interstate commerce. Under the FTC Act, the FTC can bring either federal court or administrative proceedings to challenge unfair or deceptive conduct, and can seek a range of remedies including redress or refunds, conduct bans, and prohibitions on further unlawful conduct. Although law applies to many sectors, it excludes the business of common carriage, including air travel. The Department of Transportation has oversight over pricing issues for airlines, and enforces a regulation that requires airline ticket prices to include all charges. (See 14 CFR 399.84) Violations of this rule are considered unfair and deceptive practices.

ZAMBIA

Specific laws

Consumer Protection Laws

The Information and Communication Technologies Act- enforced by Zambia Information Communication and Technology Agency (ZICTA)

The Competition and Consumer Protection Act- enforced by Competition and Consumer Protection Commission (CCPC)

Agencies that enforce laws

Zambia Information Communication and Technology Agency (ZICTA) - <https://www.zicta.zm/>

Best Practice Guidelines or Principles of 5 Spanish Speaking Countries:

ARGENTINA (non-ICPEN), CHILE, COLOMBIA, MEXICO and PERU

Below sets out the findings of desk-research conducted by the Superintendence of Industry and Commerce of Colombia to identify and collate any existing legislative information, best practice guides or principles of five Spanish speaking countries – Argentina (non-ICPEN), Chile, Colombia, Mexico and Peru.

I. Misleading presentation of pricing

Faced with the problem of misleading price presentation, Mexican and Colombian legislation have established precise enforcement actions to avoid the use of this practice.

For example, Mexican legislation establishes within its mandate of obligations in charge of tourist service providers, the duty to comply with the prices and rates that were offered or agreed.⁶⁸

Furthermore, the Colombian legislation indicates that the tourist service provider: *“In case of price advertisement, it will include all the country’s or foreign taxes, fees, charges, surcharges or tariffs that affect the final price, the currency of payment a currency from the legal currency in Colombia. The infringement of the provisions of this article will be considered misleading advertising.”*⁶⁹ (Author’s free translation).

This guarantees the consumer that the advertised price will not be subject to any additional cost or fees as the consumer proceeds with the transaction online. If the provider does not comply with this obligation, he/she will be subject to a monetary fine for misleading advertising, a practice enforced by law.

II. Omission of relevant information at all stages and/or prominently in the first instance of booking

The omission of important information on the services offered is a practice that may mislead the tourist about the content and conditions of the contract he/she concludes with the tourism service provider.

Faced with this problem, Mexico developed specific regulations on the requirements that must be contained in the contracts that tourism service providers conclude with tourists.

Thus, NOM-07-TUR-2002 indicates that the *“the packages offered by travel agencies must be available to user-tourists and must specify the services involved, the characteristics and arrangements for the provision of each service, the duration, the total price and any circumstances beyond the provider’s control which may cause the provider to vary; where appropriate, the conditions for cancellation of the services of the final provider, the minimum number of persons in the group, the conditions for payment, advances, refunds and their duration.”*⁷⁰ (Author’s free translation).

⁶⁸ Sectur.gob.mx. (2020). *Ley General de Turismo / artículo 58 - literal VI*. [online] Available at: <http://www.sectur.gob.mx/wp-content/uploads/2018/01/II.1.1-Ley-General-de-Turismo-ultima-reforma-2015.pdf> [Accessed 4 Mar. 2020].

⁶⁹ Suin-juriscol.gov.co. (2015). *DECRETO 1074 DE 2015*. Artículo 2.2.4.4.10.21 [online] Available at: <http://www.suin-juriscol.gov.co/viewDocument.asp?ruta=Decretos/30019935> [Accessed 5 Mar. 2020].

⁷⁰ Art. 6.2.5

In this way, the Mexican legislation is clear in defining the content that consumer contracts of tourist packages must have. The tourist therefore has full knowledge of the services to which they have a right at the moment of contracting with the service provider.

III. Use of fake/misleading reviews or suppressing genuine negative reviews

The use of misleading advertising is a practice that directly affects the behavior of the tourist, since providing false information about the tourist service affects the decision-making and even economic capacity of the tourist.

Colombia seeks to avoid this type of conduct by establishing sanctions against the tourism service provider when it *“uses misleading or deceptive advertising to the public regarding prices, quality or coverage of the tourism service offered or offers misleading information or leads the public to error regarding the modality of the contract, the legal nature of the rights arising from the contract and its conditions or regarding the characteristics of the tourism services offered and the rights and obligations of tourists.”*⁷¹ (Author’s free translation).

Under this rule, tourism service providers are obliged to share truthful advertising and provide full and clear information on the terms of the contract they conclude with tourists, thus protecting the tourist from any kind of advertising and false information.

For its part, Chile implemented the National Tourism Strategy 2012-2020, with a view to providing quality, value-added tourist information. With this Strategy, *“Chile’s tourist information will be of quality and will meet the requirements of tourists”*.⁷² The strategy seeks to ensure that the information provided to tourists is accurate and updated.

IV. Misleading/false statements relating to accreditation/membership of sector or trade groups or codes of conduct

False claims about tourist accreditations or reviews is a practice that several countries have tried to fight against by defining quality certification processes. In addition, in some countries, a supplier/provider is sanctioned for falsely claiming to have a certain tourist qualification. For example, in Colombia this behavior is classified as a crime (falsification in a public document), since it is an authority, which is competent to issue and grant these certifications.

In Chile, there is a tourist quality seal granted to tourism service providers from travel agencies, tourist accommodation, tourist guides and tour operators. The Chilean National Tourism Service notes that *“quality standards are minimum requirements that are set in the technical standards of management and quality that must be fulfill by tourism service providers.”*⁷³ (Author’s free translation).

Likewise, tourist accommodation service providers have a special rating according to the level of service offered to tourists. This rating determines *“what is the true level of quality of the service.”*⁷⁴ In this sense, tourists are provided with complete and adequate information so that they can choose, according to their level, what service they want to hire.

⁷¹ Anon, (2020). *LEY 300 DE 1996 – Art. 71, literal b y c*. [online] Available at: http://www.secretariasenado.gov.co/senado/basedoc/ley_0300_1996_pr001.html [Accessed 5 Mar. 2020].

⁷² Mma.gob.cl. (2020). *Línea de Acción / Promoción (9)*. [online] Available at: https://mma.gob.cl/wp-content/uploads/2014/10/1_Estrategia-Nacional-de-Turismo-2012-2020.pdf [Accessed 5 Mar. 2020].

⁷³ Calidadturistica.cl. (2020). *El Sello de Calidad - Sello de Calidad Turística de Sernatur - Sello Q*. [online] Available at: <http://www.calidadturistica.cl/el-sello-de-calidad/> [Accessed 5 Mar. 2020].

⁷⁴ Calidadturistica.cl. (2020). *Sello de Calidad Turística de Sernatur - Sello Q*. [online] Available at: <http://www.calidadturistica.cl/el-sello-de-calidad/calificacion/> [Accessed 5 Mar. 2020].

Peru has a Good Practices Application System, which is a tool *“aimed at introducing the tourist service provider to continuous quality improvement processes, through the application of good management practices, specifically designed for each type of service.”*⁷⁵ (Author’s free translation).

With the help of the aforementioned System, the tourist service provider is encouraged to implement good tourism practices, offering benefits such as free advice to obtain the Tourism Quality Seal, which is the quality mark granted to companies that provide tourist services by the Ministry of Foreign Trade and Tourism.

Colombia has the Certificate of Tourism Quality, a certification mark recognized by the Superintendence of Industry and Commerce for a tourist service provider. This certificate is a tool not only to protect tourists so that they can distinguish a certified provider in quality but also to grow and strengthen the tourism industry.

Mexico has the ‘S’ distinctive, which is *“a recognition of good sustainable practices in the development of tourism projects and the commitment of tourism companies operating in Mexico to global sustainability criteria.”*⁷⁶ (Author’s free translation). The companies that can obtain the ‘S’ mark include lodging establishments, restaurants, airports, tourist transportation companies.

Similarly, Mexico has the National Tourist Verification Program, through which *“enforcement visits are made to verify compliance with the regulations that require the activity of these providers of tourist services. This guarantees the safety of tourists and promotes the improvement of the quality of the tourist services provided in the country.”*⁷⁷ (Author’s free translation).

The Program guarantees the quality of the tourist products and services offered in the Mexican territory, offering security to the tourist when they are contracting with a tourist service provider.

Mexico has the National Tourism Registry, in which tourism service providers must register. The tourism services provider will *“have a period of thirty calendar days to register, starting from the time they start operations.”*⁷⁸ (Author’s free translation). Those providers that do not register will be sanctioned as indicated in the General Law of Consumers.⁷⁹

For its part, Chile requires providers of tourist accommodation and adventure tourism activities to be registered in the National Registry of Tourist Service Providers (RNPST). Providers of other types of tourist services may also register but it is not compulsory.⁸⁰ To register in RNPST, providers must comply with various requirements such as having a commercial patent, Unique Tax Role, among others, in addition, adventure tourism service providers must prove compliance with safety standards.

⁷⁵ Calidadturistica.pe. (2020). SISTEMA DE APLICACIÓN DE BUENAS PRÁCTICAS. [online] Available at: <http://www.calidadturistica.pe/Publico/Registro> [Accessed 5 Mar. 2020].

⁷⁶ Turismo, S. (2020). Programa de Calidad Distintivo S. [online] gob.mx. Available at: <https://www.gob.mx/sectur/acciones-y-programas/programa-de-calidad-distintivo-s> [Accessed 5 Mar. 2020].

⁷⁷ Turismo, S. (2016). Verificación de Servicios Turísticos. [online] gob.mx. Available at: <https://www.gob.mx/sectur/acciones-y-programas/verificacion-de-servicios-turisticos> [Accessed 5 Mar. 2020].

⁷⁸ Sectur.gob.mx. (2020). Ley General de Turismo / artículo 48. [online] Available at: <http://www.sectur.gob.mx/wp-content/uploads/2018/01/II.1.1-Ley-General-de-Turismo-ultima-reforma-2015.pdf> [Accessed 4 Mar. 2020].

⁷⁹ Sectur.gob.mx. (2020). Ley General de Turismo / artículo 69. [online] Available at: <http://www.sectur.gob.mx/wp-content/uploads/2018/01/II.1.1-Ley-General-de-Turismo-ultima-reforma-2015.pdf> [Accessed 4 Mar. 2020].

⁸⁰ Ley Chile - Biblioteca del Congreso Nacional. (2010). LEY-20423 , artículos 33 y 34. [online] Available at: <https://www.leychile.cl/Navegar?idNorma=1010960> [Accessed 6 Mar. 2020].

In Colombia, tourism service providers are required to be registered in the National Tourism Registry (RNT) for operation in Colombian territory, which must be updated annually. If a tourism service provider begins operations without prior registration in the National Tourism Registry or does not update it annually, the competent authority will carry out the corresponding administrative investigation and impose the sanctions established by law.

Regarding the Colombian case, to register in the National Tourism Registry, tourism service providers must meet specific requirements, for example:

- i. They must be previously registered in the Commercial Register, which must be valid to register in the RNT;
- ii. Subscribe to the code of conduct that promotes prevention policies and avoids the commercial sexual exploitation of children and adolescents in their tourist activity, in accordance with the enforcement of the Law.

Likewise, there is a special commitment of tourism service providers in Colombia, namely:

“In the case the real property that is subject to horizontal property regime, the provider must inform if the property is authorized to engage in commercial activities.”⁸¹ (Author’s free translation).

Concerning this obligation, Colombia has regulated tourist lodgings which, according to the law, are providers of tourist services and therefore must be registered in the National Registry of Tourism.

Decree 2119 of 2018 defined tourist housing as a *“real property unit destined totally to provide the accommodation service according to its capacity. The service can be offered to one or more people, which can count on complementary services and at least with: bedroom, kitchen and bathroom (...) For the purposes of the provisions of the General Tourism Law and the regulations that modify, add to or replace it, tourist apartments, tourist farms and other properties whose destination corresponds to this definition belong to this classification.”⁸²*

The Colombian government saw the necessity to establish general guidelines for the tourist housing service in order to protect both: the guest and the provider of tourist accommodation services and thus manage to formalize services offered on platforms such as Airbnb and Booking.

In this matter, after studying the tourist housing service, it was observed that this service was provided in real properties subject to the horizontal property regime, for which the Colombian government has regulated this activity in Decree 2106 of 2019, where a special obligation is established by landlords or managers, namely:

“It is the obligation of the administrators of the properties subject to the horizontal property regime in which the tourist housing service is provided, to report to the Superintendence of Industry and Commerce, the provision of such type of services in

⁸¹ Gestor Normativo. (2015). *Decreto Único Reglamentario del Sector Comercio, Industria y Turismo / artículo 2.2.4.1.2.2 - literal b.* [online] Available at: <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=76608> [Accessed 6 Mar. 2020].

⁸² Funcionpublica.gov.co. 2018. Decreto 2119 De 2018 - Artículo 2.2.4.4.12.2. [online] Available at: <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=89402> [Accessed 9 March 2020].

the horizontal property properties that they administer, when these are not authorized by the regulations for said destination, or are not registered in the National Tourism Registry.”⁸³ (Author’s free translation).

The above means that the service of tourist housing can only be provided in a property subject to the horizontal property regime when it is permitted in the horizontal property regulation, if nothing is stipulated about this service it will be understood that it is prohibited in the co-ownership. This Decree is clear when indicating that the lender of the service of tourist housing that operates without the previous authorization in the regulations of horizontal property will be creditor those of sanctions contemplated in the law.⁸⁴

It can be concluded that Colombia has developed a general regulation regarding service in tourist housing, an activity increasingly used in the tourism sector worldwide, thanks to the emergence and growth of digital platforms, in search of consumer or tourist protection that chooses to use this type of service.

V. Breach of the service offered or agreed

In Colombia, the General Law on Tourism states that *“when the providers of tourist services do not comply with the services offered or agreed upon in a total or partial manner, they will have the obligation, at the tourist’s option, to provide another service of the same quality or to reimburse or compensate the price agreed upon for the unfulfilled service. If it is impossible to provide the service of the same quality, the provider must contract, at his own expense, with a third party to provide the service.”⁸⁵ (Author’s free translation).*

This law ensures the tourist, in the event of non-compliance with the service contracted by the provider, the provision of a service of the same quality or the refund of the price of the service initially agreed. This applies to the same extent in the event of non-compliance due to overselling in the services offered or agreed.⁸⁶

In the same way, Mexican legislation establishes the following:

“In the event that the tourist service provider fails to comply with one of the services offered or agreed or with all of them, he or she will be obliged to refund, discount or compensate the corresponding amount for the payment of the unfulfilled service, or he or she may provide at the tourist’s choice, another service of the same characteristics or equivalent to the one that the provider fail to fulfill.”⁸⁷ (Author’s free translation).

⁸³ Dapre.presidencia.gov.co. 2019. DECRETO 2106 DE 2019 - Artículo 144. [online] Available at: <<https://dapre.presidencia.gov.co/normativa/normativa/DECRETO%202106%20DEL%2022%20DE%20NOVIEMBRE%20DE%202019.pdf>> The above means that the tourist housing service can only be provided in a property subject to the horizontal property regime when it is allowed in the horizontal property regulation, in the event that nothing is stipulated about this service it will be understood that it is prohibited in the joint ownership [Accessed 9 March 2020].

⁸⁴ Secretariassenado.gov.co. 2001. LEY 675 DE 2001 - Artículo 59. [online] Available at: <http://www.secretariassenado.gov.co/senado/basedoc/ley_0675_2001_pr001.html#59> [Accessed 9 March 2020].

⁸⁵ Ley 300 de 1996 / artículo 63. [online] Available at: http://www.secretariassenado.gov.co/senado/basedoc/ley_0300_1996_pr001.html [Accessed 4 Mar. 2020].

⁸⁶ Ley 300 de 1996 / artículo 64. [online] Available at: http://www.secretariassenado.gov.co/senado/basedoc/ley_0300_1996_pr001.html [Accessed 4 Mar. 2020].

⁸⁷ Sectur.gob.mx. (2020). Ley General de Turismo / artículo 60. [online] Available at: <http://www.sectur.gob.mx/wp-content/uploads/2018/01/II.1.1-Ley-General-de-Turismo-ultima-reforma-2015.pdf> [Accessed 4 Mar. 2020].

VI. Tourist Protection

As tourism grows, so do its risks, which is why it has been necessary to regulate the issue of safety so that the exercise of tourism is not undermined by some circumstance that represents a danger to tourists.

The Peruvian law has a Tourist Protection Network created under the mandate of the General Law of Consumption of Peru, whose objective is *“to improve the levels of tourist security through strategic alliances with the actors of the public and private sectors in benefit of the country's image and the socio-economic development of Peru and to identify possible situations and scenarios of risk and vulnerability that could affect the normal development of tourist activity, in order to overcome them by guaranteeing the integral security and defense of tourists and their property.”*⁸⁸ (Author's free translation).

This network seeks to improve safety conditions for the users of tourist services and thus provide adequate conditions for tourists to safeguard their physical integrity and their heritage.

In Mexico, there is a special regulation on the security, information and operation requirements that must be enforced by tourism adventure tourism service providers.

Adventure tourism refers to recreational activities associated with challenges imposed by nature, which is why it is necessary to regulate this type of tourism in order to protect the safety of tourists.

Thus, the Mexican legislator has established special charges for tourism service providers, namely:

*“The tourist service provider must observe the security measures before and during the provision of the service in order to provide greater security to the physical integrity of the tourist.”*⁸⁹ (Author's free translation).

Finally, in Colombia, the Tourist Protection Group was created, in charge of carrying out administrative sanctioning actions against those tourist service providers that do not comply with tourism regulations, and in this way to guarantee safe and responsible tourism.

In conclusion, it can be said that in different Spanish-speaking countries, attempts have been made to combat arbitrary practices that threaten tourists by regulating the activities and obligations of tourism service providers and by implementing policies or strategies aimed not only at protecting tourists but also at strengthening and developing the tourism industry in these countries.

⁸⁸ Mincetur.gob.pe. (2018). PLAN DE PROTECCIÓN AL TURISTA. [online] Available at: https://www.mincetur.gob.pe/wp-content/uploads/documentos/turismo/RPT/PLAN_DE_PROTECCION_AL_TURISTA_2018_2019.pdf [Accessed 5 Mar. 2020].

⁸⁹ Mincetur.gob.pe. (2018). PLAN DE PROTECCIÓN AL TURISTA. [online] Available at: https://www.mincetur.gob.pe/wp-content/uploads/documentos/turismo/RPT/PLAN_DE_PROTECCION_AL_TURISTA_2018_2019.pdf [Accessed 5 Mar. 2020].

Annex B: Links to further information relating to case studies

Australia

- [ACCC takes action against Trivago over hotel price advertisements](#)
- [Trivago misled consumers about hotel room rates](#)
- [Flight delays & cancellations](#)
- [Airlines: Terms and conditions report](#)
- [Customer loyalty schemes](#)
- [STA Travel to pay \\$14 million in penalties for misleading advertisements](#)
- [Flight Centre Travel Group Limited](#)
- ACCC v [Meriton](#)
- [Travel pre-selection insurance](#)
- ACCC v [Jetstar and Virgin](#)

ACCC (Australian Competition and Consumer Commission) (2015a), Court finds that Jetstar and Virgin Australia engaged in misleading 'drip pricing' practices, November 2015, www.accc.gov.au/mediarelease/court-finds-that-jetstar-and-virgin-australia-engaged-in-misleading-%E2%80%98drippricing%E2%80%99-practices.

- [Airbnb and eDreams give undertakings to ACCC for improved pricing practices](#)

ACCC (Australia) (2015b), Airbnb and eDreams give undertakings to ACCC for improved pricing practices, October 2015, www.accc.gov.au/media-release/airbnb-and-edreams-give-undertakingsto-acc-for-improved-pricing-practices
- [Airlines need to comply with consumer law](#)
- [Expedia and Booking.com agree to reinvigorate price competition by amending contracts with Australian hotels](#)
- ACCC v [Europcar](#)
- [Hertz undertakes to refund consumers and improve damage assessment and charging practices](#)
- [Review of consumer protection in the travel and travel related services market](#)
- ACCC (Australia) (2015c), Internet sweep shows improvements to disclosure in online booking processes, December 2015, www.accc.gov.au/media-release/internet-sweep-shows-improvements-todisclosure-in-online-booking-processes.

Belgium

- Guidance written by the Federal Public Service Economy 'concerning the announcement of price reductions'.

Guidance only available in Dutch:

(<https://economie.fgov.be/sites/default/files/Files/Entreprises/guidelines-prijsverminderingen.pdf>) and French

(<https://economie.fgov.be/sites/default/files/Files/Entreprises/guidelines-reductions-de-prix.pdf>).

Canada

- FlightHub

<https://www.canada.ca/en/competition-bureau/news/2019/10/competition-bureau-takes-action-on-false-or-misleading-marketing-practices-in-online-flight-sales.html>

- Car Rental Industry

<https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03885.html>

<https://www.canada.ca/en/competition-bureau/news/2016/06/avis-and-budget-to-ensure-prices-advertised-are-accurate.html>

<https://www.canada.ca/en/competition-bureau/news/2017/04/hertz-and-dollarthriftytopay125millionpenaltyforadvertisingunatt.html>

<https://www.canada.ca/en/competition-bureau/news/2018/02/enterprise-rent-a-car-canadatopaya1millionpenaltyforadvertisingunatt.html>

<https://www.canada.ca/en/competition-bureau/news/2018/10/discount-car-rental-penalised-for-advertising-unattainable-prices.html>

- *The Deceptive Marketing Practices Digest -*

<https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04520.html>

- The Competition Bureau consumer:

<https://www.canada.ca/en/competition-bureau/news/2016/12/traveling-holidays-wrapped-up-surprise-fees.html?Open=1&=undefined&wbdisable=true>

- Competition Bureau (Canada) (2016), Avis and Budget to ensure prices advertised are accurate, June 2016,

www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04099.html.

Norway

- The Norwegian Consumer Authority has made general guidance on the use of customer reviews in marketing, which was originally made in 2016, but updated in January 2018, see <https://www.forbrukertilsynet.no/lov-og-rett/veiledninger-og-retningslinjer/brukeromtaler-i-markedsforing> (Norwegian version).
 - The NCA also made a document about sales of package travels and airline tickets provided by online travel agents which was meant to reflect certain industry standards, see <https://www.forbrukertilsynet.no/lov-og->
-

rett/veiledninger-og-retningslinjer/bransjenorm-salg-pakkereiser-formidling-flybilletter-internett (Norwegian version). However, this document is partly outdated because of the new package travel directive.

New Zealand

- Campervan rental – Alleged misrepresentation about liability caps:
[https://comcom.govt.nz/news-and-media/media-releases/2019/campervan-renters-to-be-refunded-over-\\$0-liability-damage-cover](https://comcom.govt.nz/news-and-media/media-releases/2019/campervan-renters-to-be-refunded-over-$0-liability-damage-cover)
- Pre-ticked boxes / Drip pricing:
<https://comcom.govt.nz/news-and-media/media-releases/2016/airasia-warned-over-opt-out-pricing-and-processing-fee>
<https://comcom.govt.nz/news-and-media/media-releases/2016/jetstar-gives-enforceable-undertakings-to-end-opt-out-pricing>
- Online reviews:
<https://comcom.govt.nz/news-and-media/media-releases/2019/bachcare-convicted-and-fined-for-misleading-online-reviews>
<https://comcom.govt.nz/business/dealing-with-typical-situations/ensuring-customers-get-a-complete-picture-of-your-online-reviews>

United Kingdom

- [Online Hotel Booking](#)
- [Car Hire – EU -wide commitments from the ‘Big 5’](#)
- [Online platforms and digital advertising market study](#)

Annex C: Additional examples of ICPEN work on wider tourism issues

Canada

In March 2020, the Bureau released [Volume 5 of The Deceptive Marketing Practices Digest](#) on its website. Among other topics, the bulletin discusses drip pricing in the car rental industry and the Bureau's enforcement actions in this space. The bulletin also discusses issues relating to misleading or a lack of information about how a consumer's data will be used in exchange for "free" online products and services.

In December 2016, the Bureau released a consumer alert that educated consumers about potentially misleading tactics used by online travel and accommodation platforms such as drip-pricing and the omission of relevant information, such as information that is hidden in terms and conditions or terms which might be surprising to consumers generally.⁹⁰

Colombia

In 2019, the SIC, along with a series of other stakeholders such as the National Tourism Fund, held a series of conferences to educate tourism service providers about consumer law. These included educating tourism service providers of their obligations in relation to a number of areas including consumer protection and consumer rights, and resolving consumer claims.

VOLARE TRAVELS S.A.S. EN LIQUIDACIÓN and C.T.R. TRAVEL HOLDING S.A.S. EN LIQUIDACIÓN

In 2017, the SIC received numerous complaints about the services offered by 2 tourist companies, VOLARE TRAVELS S.A.S. EN LIQUIDACIÓN and C.T.R. TRAVEL HOLDING S.A.S. EN LIQUIDACIÓN. It was alleged that these companies were not providing the services consumers had paid for. To combat the harm to consumers resulting from the operator's failure to provide the tourist services, the SIC, by a Resolution, ordered the blocking of the bank accounts of the companies and the freezing of 100% of the money deposited in said the relevant companies' accounts. In 2018, the SIC also ordered that the companies should be suspended from the National Tourism Registry, to ensure they did not continue causing damage or harm to consumers.

TOUR VACATION HOTELES AZUL S.A.S

In 2019, the SIC took action against a tour services operator, TOUR VACATION HOTELES AZUL S.A.S after receiving a range of consumer complaints against the company. These included the use of misleading advertising, poor quality service provision, cancellations of tourist packages and changes in the conditions initially offered of the quality of hotels, food and other services. The SIC's position was that consumers should be guaranteed the services purchased. To address the issues, SIC required the tour operator to submit a bimonthly list of all the requests, complaints or claims received from consumers, as well as a list of the sales made during the period. In addition, SIC required the company to implement new management software to standardise guarantees, complaints etc.

The SIC by means of Resolution 7579 of February 26, 2020, in exercise of its administrative powers, protection and guarantee of the rights of consumers, and especially, the right of consumers to obtain quality products that offer the necessary safety to avoid damage to their

⁹⁰ ['Traveling for the Holidays? Don't get wrapped up in surprised fees'](#), Competition Bureau Canada.

health, life or integrity, issued an administrative order of a general nature, tending to guarantee tourists visiting Playa Blanca, Barú, in Cartagena, their right to safety.

In that Resolution, the SIC ordered the following:

- To order in a preventive and immediate way to the owners of the lodging commerce establishments that operate in Playa Blanca, Barú, located in low tide and that do not have permits for the use and enjoyment of the land, the cessation of the lodging service, until the Mayor's Office of Cartagena, determines the origin or not of the closing of such establishments.
- To prohibit, in a preventive and immediate way, the owners of commercial accommodation establishments that operate in Playa Blanca, Barú, located in low tide and that do not have permits for the use and enjoyment of the land, the promotion, commercialization, reservation and provision of the accommodation service in their commercial establishments, until the Mayor's Office of Cartagena, determines the origin or not of the closure of such establishments.
- To prohibit, in a preventive and immediate manner, travel agencies and providers that offer tourist services through traditional commerce and electronic commerce, the promotion and commercialization of tourist services that include lodging in the commercial establishments of Playa Blanca, Barú, located in low tide and that do not have permits for the use and enjoyment of the land, until the Mayor's Office of Cartagena, determines the origin or not of the closure of said establishments. ▪ The administrative order in question can be viewed at the following link:
http://visordocs.sic.gov.co:8080/consultaDocs/visor.jsf?tipo_acto=RE&ano_acto=2020&nume_acto=7579

Currently, within the general framework the SIC is constantly monitoring providers of vacation rental services, the objective of this action is to verify compliance with national tourism regulations and the Consumer's Statute.

In that sense, different web pages and portals were checked, where advertisements led the SIC to finding the provision of vacation rental services. After gathering information about who might be providing this service, along with the review of complaints from citizens and from administrators of horizontal property of the buildings, the SIC issued 1733 requests for information directed to verifying possible infringements to consumer tourism regulation in cities such as Medellín, Cartagena, Santa Marta, Cali and San Andrés.

Cyprus

The Cyprus Consumer Protection Service (CPS) took enforcement action against bookcyprus.com in line with the EU common action regarding Booking.com. The CPS found that each accommodation had, next to its name, a star rating. The CPS argued that the rating gave the wrong impression to consumers that this was the official assessment of the accommodation star category given by the Ministry of Tourism.

Annex D: Reading list

European Commission:

EC (2018) Consumer market study on online market segmentation through personalised pricing/offers in the European Union, European Commission

EC (2017), "Booking your holidays online: Commission and consumer protection authorities act on misleading travel booking websites", press release, 7 April, European Commission, Brussels, <http://bit.ly/2oQqHJI>

EC (2017), Protecting consumers from unfair trade practices - https://ec.europa.eu/info/sites/info/files/factsheet-en_1.pdf

EC (2016), Consumer vulnerability across key markets in the European Union, European Commission, Brussels
http://ec.europa.eu/consumers/consumer_evidence/market_studies/docs/vulnerable_consumers_approved_27_01_2016_en.pdf

EC (2016), Understanding consumer vulnerability in the EU's key markets: Factsheet, European Commission, https://ec.europa.eu/info/sites/info/files/consumer-vulnerabilityfactsheet_en.pdf.

G20:

G20 (2017), G20 Digital Economy Ministerial Conference, including G20 Digital Economy Ministerial Declaration, 6-7 April 2017, G20 - https://unctad.org/meetings/en/Contribution/dtl_eWeek2017c02-G20_en.pdf

ICPEN:

ICPEN (2016), Guidelines on online reviews and endorsements, June 2016 - <https://icpen.org/news/741>

ICPEN (2015), ICPEN Internet Sweep: Online Pricing Issues - https://icpen.org/system/files/documents/ICPEN_2015_Sweep_Results.pdf

OECD:

OECD (2020), Measuring consumer detriment and the impact of consumer policy: feasibility study, OECD Digital Economy Papers, April 2020 - <https://www.oecd-ilibrary.org/docserver/0c2e643b-en.pdf?expires=1596024614&id=id&accname=quest&checksum=AABF3532EE18431DA8A6BA51DA9CFA47>

OECD (2020), OECD Tourism Trends and Policies 2020, March 2020 - <http://www.oecd.org/cfe/tourism/oecd-tourism-trends-and-policies-20767773.htm>

OECD (2019), Challenges to consumer policy in the digital age: Background report, G20 International Conference on Consumer Policy, Tokushima, Japan, 5-6 September 2019 - <http://www.oecd.org/sti/consumer/challenges-to-consumer-policy-in-the-digital-age.pdf>

OECD (2019), Good practice guide on online advertising: protecting consumers in e-commerce, OECD Digital Economy Papers, March 2019. - <https://www.oecd-ilibrary.org/docserver/9678e5b1->

[en.pdf?expires=1596024383&id=id&accname=quest&checksum=92A3CE2F5F4DB08A23740BD98875D45E](https://www.oecd-ilibrary.org/docserver/1f42c85d-en.pdf?expires=1596024383&id=id&accname=quest&checksum=92A3CE2F5F4DB08A23740BD98875D45E)

OECD (2019), Online advertising: Trends, benefits and risks for consumers, OECD Digital Economy Papers, January 2019 - <https://www.oecd-ilibrary.org/docserver/1f42c85d-en.pdf?expires=1596024444&id=id&accname=quest&checksum=BA277255C09A3C8944895EB343C1A768>

OECD (2019), Good practice guide on consumer data, OECD Digital Economy Papers, September 2019 - <https://www.oecd-ilibrary.org/docserver/e0040128-en.pdf?expires=1596024663&id=id&accname=quest&checksum=6934CF1FDD3D8107A6BEBA585BA6FCC1>

OECD (2019), Understanding online consumer ratings and reviews, OECD Digital Economy Papers, September 2019 - <https://www.oecd-ilibrary.org/docserver/eb018587-en.pdf?expires=1596024706&id=id&accname=quest&checksum=49A43DF1FBAC0498C5BE4902AB9A279C>

OECD (2019), Good practice guide in online consumer ratings and reviews, OECD Digital Economy Papers, September 2019 - <https://www.oecd-ilibrary.org/docserver/0f9362cf-en.pdf?expires=1596024743&id=id&accname=quest&checksum=0E78CEF4858A3F8FDBA4849897B23868>

OECD (2019), An introduction to online platforms and their role in the digital transformation, OECD Publishing, <https://doi.org/10.1787/53e5f593-en>.

OECD (2018), Personalised Pricing in the Digital Era: Background Note by the Secretariat, <http://www.oecd.org/daf/competition/personalised-pricing-in-the-digital-era.htm>.

OECD (2018), Toolkit for protecting digital consumers: a resource for G20 policy makers, OECD, 2018 - <http://www.oecd.org/going-digital/topics/digital-consumers/toolkit-for-protecting-digital-consumers.pdf>

OECD (2018), Improving online disclosures with behavioural insights, OECD Digital Economy Papers, April 2018 - <https://www.oecd-ilibrary.org/docserver/39026ff4-en.pdf?expires=1596024565&id=id&accname=quest&checksum=7B156A2B2F6E8617CBE319B277051023>

OECD (2017), Trust in peer platform markets, OECD Digital Economy Papers, November 2017 - <https://www.oecd-ilibrary.org/docserver/1a893b58-en.pdf?expires=1596024793&id=id&accname=quest&checksum=9664267EAD4D1D1EE9B519BDCF8172A9>

OECD (2017), Use of Behavioural Insights in Consumer Policy, https://www.oecdilibrary.org/industry-and-services/use-of-behavioural-insights-in-consumer-policy_c2203c35-en

OECD (2016), Consumer protection in e-commerce: OECD Recommendation, 2016 - <http://www.oecd.org/sti/consumer/ECommerce-Recommendation-2016.pdf>

OECD (2014), OECD Recommendation on consumer policy decision making, March 2014 - <http://www.oecd.org/sti/consumer/Toolkit-recommendation-booklet.pdf>

OECD (2010), Consumer policy toolkit, July 2010 - <http://www.oecd.org/sti/consumer/consumer-policy-toolkit-9789264079663-en.htm>

UNCTAD:

UNCTAD (2020), Covid-19 and Tourism: assessing the economic consequences, July 2020 - <https://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=2810>

UNCTAD (2019), Competition issues in the digital economy, Trade and Development Board, July 2019 - https://unctad.org/meetings/en/SessionalDocuments/ciclpd54_en.pdf

UNCTAD (2018), Intergovernmental Group of Experts on Consumer Law and Policy (IGE Consumer), 3rd Session, 9-10 July 2018, Geneva – Agenda item 3e. report of the working groups on electronic commerce and on the protection of vulnerable and disadvantaged consumers, as well as on the latest developments in legal and institutional frameworks – The challenge of protecting EU consumers in global online markets, November 2017, BEUC and verbraucherzentrale Bundesverband.

UNCTAD (2017), Research Partnership Platform 8th Meeting, 5 July 2017 – Indicators of consumer protection and empowerment in the digital world, Presentation by Prof. Dr. Christian Thorun, Institute for Consumer Policy, Germany - https://unctad.org/meetings/en/Presentation/cicplp2017c5_ccChristianThorun_en.pdf

UNCTAD (2017), Manual on consumer protection, UN - https://unctad.org/en/PublicationsLibrary/ditccplp2017d1_en.pdf

UNCTAD (2017), Achieving the sustainable development goals through consumer protection, UN - https://unctad.org/en/PublicationsLibrary/ditccplp2017d2_en.pdf

UNCTAD (2017-2019), All meetings of IGE on E-commerce and the Digital Economy, October 2017 – April 2019

UNCTAD (2016), Intergovernmental Group of Experts on Consumer Law and Policy (IGE Consumer), 17-18 October 2016, Geneva – Round table on ‘Challenges and perspectives for the collaborative economy’, Protecting consumers in peer platform markets, Contribution by OECD - https://unctad.org/meetings/en/Presentation/cicplp2016c04_ccOECD_en.pdf

UNCTAD (2016), Guidelines for consumer protection, UN, 2016 - https://unctad.org/en/PublicationsLibrary/ditccplpmisc2016d1_en.pdf

UN World Tourism Organisation:

UNWTO (2020), Global Tourism Dashboard, July 2020 - <https://www.unwto.org/global-and-regional-tourism-performance>

UNWTO (2020) World Tourism Barometer Volume 18, May 2020 - <https://www.unwto.org/market-intelligence>

UNWTO (2020), Compendium of Tourism Statistics, Data 2014 - 2018, 2020 Edition, January 2020 - <https://www.e-unwto.org/doi/book/10.18111/9789284421459>

UNWTO (2019), New business models in the accommodation industry – benchmarking of rules and regulations in the short-term rental market: Executive Summary, October 2019 - <https://www.e-unwto.org/doi/book/10.18111/9789284421190>

UNWTO (2019), Baseline report on the integration of sustainable consumption and production patterns into tourism policies, May 2019 - <https://www.e-unwto.org/doi/book/10.18111/9789284420605>

UNWTO (2013), Recommendations on Accessible Tourism, 2017 - <https://www.e-unwto.org/doi/book/10.18111/9789284415984>

UNWTO (2001) Global code of ethics for tourism, 2001 - <https://www.unwto.org/global-code-of-ethics-for-tourism>

ASEAN:

ASEAN (2020), Online business code of conduct, ASEAN, February 2020 - [https://aseanconsumer.org/file/post_image/2020-02-26%20ASEAN%20COC%20\(fin\).pdf](https://aseanconsumer.org/file/post_image/2020-02-26%20ASEAN%20COC%20(fin).pdf)

ASEAN (2018), Handbook on ASEAN Consumer Protection Laws and Regulations, ASEAN, June 2018 - <https://asean.org/wp-content/uploads/2018/05/Handbook-on-ASEAN-Consumer-Protection-Laws-and-Regulation.pdf>

ASEAN (2016), Phones, internet services & e-commerce, ASEAN, Australian Aid and UNCTAD, January 2016 - https://aseanconsumer.org/file/post_image/ECMF-21Jan16.pdf

ASEAN (2015), Consumer protection digests and case studies: a policy guide (Volume II), ASEAN, December 2015, - https://aseanconsumer.org/file/post_image/CPDCS_PGV2.pdf

ASEAN (2014), Consumer protection digests and case studies: a policy guide (Volume I), ASEAN, November 2014 - https://aseanconsumer.org/file/post_image/CPDCS_PGV1.pdf

Consumers International:

CI (2019) Artificial intelligence: consumer experiences in new technology, April 2019 - <https://www.consumersinternational.org/media/261949/ai-consumerexperiencesinnewtech.pdf>

CI (2019), Consumer IOT: Trust by design 2019: guidelines and checklists, 2019 - <https://www.consumersinternational.org/media/302319/trust-by-design-guidelinespdf.pdf>

CI (2018) The consumer checklist for an international e-commerce deal, October 2018 - <https://www.consumersinternational.org/media/155222/consumerchecklistforinternationale-commerceddeal.pdf>

CI (2017) Connecting voices: a role for consumer rights in developing digital society, November 2017 - https://www.consumersinternational.org/media/154869/ci_connecting-voices_2017_v2.pdf

CI (2017), Digital ID in peer to peer markets, December 2017 - <https://www.consumersinternational.org/media/154884/digital-id-report.pdf>

CI (2017), Building a digital world consumers can trust, March 2017 - https://www.consumersinternational.org/media/1822/ci-summary_english_updated.pdf

Consumer Reports:

Consumer Reports (2019), Protect yourself from hidden fees, May 29, 2019 - <https://www.consumerreports.org/fees-billing/protect-yourself-from-hidden-fees/>

Academic papers:

Ahmetoglu, G. et al. (2010), Pricing Practices: Their Effects on Consumer Behaviour and Welfare, Prepared for the Office of Fair Trading,

http://webarchive.nationalarchives.gov.uk/20140402172955/http://oft.gov.uk/shared_of/busin ess_leaflets/659703/Advertising-of-prices/Pricing-Practices.pdf

Calo, R. (2014), "Digital Market Manipulation", The George Washington Law Review, Vol. 82/4, pp. 995-1051, http://www.gwlr.org/wp-content/uploads/2014/10/Calo_82_41.pdf

Heitzman, A. (2017), How Digital Marketing Transformed the Consumer Buying Process, Inc.com, <https://www.inc.com/adam-heizman/how-digital-marketing-transformed-theconsumer-buying-process.html>

Kahneman, D., D. Lovallo and O. Sibony (2011), "Before You Make That Big Decision...", Harvard Business Review, Vol. June, pp. 51 - <https://www.aub.edu.lb/units/ehmu/Documents/before-you-make-that-big-decision.pdf>

Llewellyn, G. (2016), Behavioural economics and digital marketing, Smart Insights, <https://www.smartinsights.com/marketplace-analysis/consumer-buyingbehaviour/behavioural-economics-digital-marketing/>

Teubner, T and Graul, A (2019), 'Only one room left! How scarcity cues affect booking intentions on hospitality platforms', Electronic Commerce Research and Applications, Volume 39, January – February 2020, Elsevier - <https://www.sciencedirect.com/science/article/pii/S1567422319300870>

Xia, L. and K. Monroe (2004), "Price Partitioning on the Internet", Journal of Interactive Marketing, Vol. 18/4, <http://dx.doi.org/10.1002/dir.20017>.

Xia, L. and K. Monroe (2004), "[The Price is Unfair! A Conceptual Framework of Price Fairness Perceptions](#)".

Other:

Competition Bureau Canada (2018), The Little Black Book of Scams 2nd edition, <https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04333.html>

Competition Bureau Canada (2018), The Deceptive Marketing Practices Digest - Volume 1, [http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/vwapj/cb-digest-deceptive-marketinge.pdf/\\$FILE/cb-digest-deceptive-marketing-e.pdf](http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/vwapj/cb-digest-deceptive-marketinge.pdf/$FILE/cb-digest-deceptive-marketing-e.pdf)

Canadian Competition Bureau (2015), The Deceptive Marketing Practices Digest, <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03946.html>

Competition Bureau (Canada) (2015), False or Misleading Representations and Deceptive Marketing Practices, <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03133.html>

Department for Business, Energy and Industrial Strategy (2018), Modernising consumer markets: Consumer Green Paper, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/699937/modernising-consumer-markets-green-paper.pdf

Federal Trade Commission (2017) , Economic Issues – Economic Analysis of Hotel Resort Fees, https://www.ftc.gov/system/files/documents/reports/economic-analysis-hotel-resort-fees/p115503_hotel_resort_fees_economic_issues_paper.pdf

KPMG (2017), The truth about online consumers 2017 Global Online Consumer Report,

Singapore Competition and Consumer Commission of Singapore (2019), Market Study Report, Online Travel Booking Sector in Singapore, Findings and Recommendations, 2019.

UK CMA (2019), Consumer vulnerability: challenges and potential solutions, <https://www.gov.uk/government/publications/consumer-vulnerability-challenges-and-potential-solutions/consumer-vulnerability-challenges-and-potential-solutions>.

UK Citizens Advice (2018), *A price of one's own – An investigation into personalised pricing in essential markets*, Citizens Advice, Morgan Wild and Marini Thorne, August 2018 - <https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/A%20price%20of%20one's%20own%20final.pdf>

World Travel and Tourism Council, Economic Impact Reports - <https://wttc.org/Research/Economic-Impact>