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Expedia adjusts its Terms and Conditions to Booking.com

## The next bluff in parity poker

On the day the new rate parity clauses of Booking.com become valid Expedia, the number 2 under the booking portals in Europe, announced an identical change in its general terms and conditions for August 1, 2015. Also Expedia intends to allow hotels cheaper rates on competing OTAs, but by no means on its own website. “Thus, the given commitments to the antitrust authorities in France, Sweden and Italy for more competition are finally reduced to absurdity: Booking.com allows the hotel to offer a lower price on Expedia than on Booking.com but not on the hotel website. Expedia allows the hotel, to offer a lower price on Booking.com than on Expedia but not on the hotel website. In practice, the familiar parity-grid is set in stone for the hotelier.” criticizes Markus Luthe, CEO of the German Hotel Association (IHA). “On a closer look the alleged commitments from Expedia and Booking.com just turn out as another bluff in an unspeakable parity poker with the competition authorities.”

The German Hotel Association considers that with this approach, also the Expedia group disregarded not only the competition authorities and the case-law in Germany, but with the concerted implementation of the new terms and conditions across the European Union also duped the French National Assembly, which recently has brought on the way a comprehensive legal ban against these parity clauses.

The IHA points out that also the modified rate parity clauses by Booking.com and Expedia were not compatible with applicable antitrust laws. Any hotel that accepts such anti-competitive clauses and thus makes them part of its contracts, participates itself in an infringement of German and European competition law, which might even lead to the imposition of heavy fines. As regards the latter it should be noted that according to case law by the European Commission and the European Court of Justice (C-189/02P), it is not sufficient for an undertaking to escape liability under the competition rules to address an anti-competitive agreement with inner aversion and let it unapplied in practice. Rather, sanctions can be escaped only through an explicit and unequivocal objection.

The IHA is a third party observer in the cartel proceedings against Booking.com and Expedia in Germany. In order to foster the procedures accordingly the IHA asks those hotels, which have opted for an objection against the new terms of Booking.com and / or Expedia, to send a short message at [hinweis@hotellerie.de](mailto:hinweis@hotellerie.de). The IHA will treat this information confidentially and will inform the German Competition Authority only of the consolidated total number of contradictions.

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### About the German Hotel Association (IHA)

The German Hotel Association (IHA) is the national trade association for the hotel industry in Germany. IHA represent more than 1.400 hotels in Germany ranging from all categories of individual hotels, chain hotels and hotel cooperations. The primary role is to lobby government across Germany and in Europe, representing the views of the hotel industry and promoting and protecting the interests of all operators in the industry. IHA also provides members with a wide range of services designed to keep them informed of industry issues, help grow their business and save them money and time.