

Digital Comparison Tools Market Study:

Response form

1. Thank you for taking the time to respond to the questions in the Statement of Scope for our Market Study of Digital Comparison Tools (DCTs), published on our [website](#) on 29 September 2016.
2. Please download and save this form before completing it. Please submit your response by **5pm on Monday, 24 October 2016**, either by:
 - Email to: comparisontools@cma.gsi.gov.uk.
 - Or by post to: Digital Comparison Tools Market Study
Competition and Markets Authority
7th floor
Victoria House
37 Southampton Row
London WC1B 4AD
3. Please note:
 - You can choose which questions to respond to, but we ask all respondents to provide a small amount of background information at the start of this form. The boxes will 'expand' to accommodate long responses if required.
 - We are particularly keen to receive evidence in support of responses. If you are able to supply evidence please attach this with your response.
 - We intend to publish responses to our Statement of Scope in full. If you wish to submit information that you consider to be confidential, this should be indicated to us clearly and an explanation given as to why you consider it to be confidential.
 - The CMA may use the information you provide for the purposes of facilitating the exercise of any of its statutory functions. This may include the publication or disclosure of the information. Prior to publication or disclosure, in accordance with its statutory duties under Part 9 of the Enterprise Act 2002, the CMA will have regard to (among other considerations) the need to exclude, so far as is practicable, any information relating to the private affairs of an individual or any commercial information relating to a business which, if disclosed, would or might, in our opinion, significantly harm the individual's interests or, as the case may be, the legitimate business interests of that business (confidential information). Further information about how the CMA will use information submitted during the Market Study can be found on our [website](#).
4. If you have any questions about our Market Study or this online form please contact the team at comparisontools@cma.gsi.gov.uk.

Your details*(Fields marked * are required)*

Title*	Ms
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What is your role / profession*	Chief Executive
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Are you representing yourself or an organisation?*	An organisation
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If you are representing yourself rather than an organisation would you be content for us to include your name when we publish your response?*	N/A
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If you are representing an organisation:

(a) What is the organisation's name?*	British Hospitality Association
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(b) Please could you briefly explain the role of your organisation, including the sectors in which it operates or has most interest?*
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This submission is made on behalf of the British Hospitality Association (BHA) a representative body for the UK hospitality and tourism industry comprised of some 45,000 member- businesses, including hotels, serviced apartments, private rental schemes, private members' clubs, self-catering accommodation, restaurants, food service management companies, attractions, sport stadiums, and other leisure outlets across the UK.

In its response to this study the BHA refers to surveys conducted by it in the last year, comments in italics included in our answers are quoted comments made anonymously by our members, relevant to the questions.

Theme 1: Consumers' perceptions, use and experience of DCTs

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

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

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

Consumers in the hospitality industry use two main types of online platform:

- those which are used primarily for booking, such as online travel agencies (OTAs) for example Booking.com and Expedia for room bookings and Opentable and Bookatable for restaurants;
- metasearch engines (or aggregators) which use other platforms' data to produce their own results from which consumers can make comparisons between different venues, such as hotels or restaurants and often direct customers to booking platforms. Consumers now also book rooms on metasearch engines.

Google is also significant as it is the most commonly used search engine but also offers its own platform 'Google hotels'.

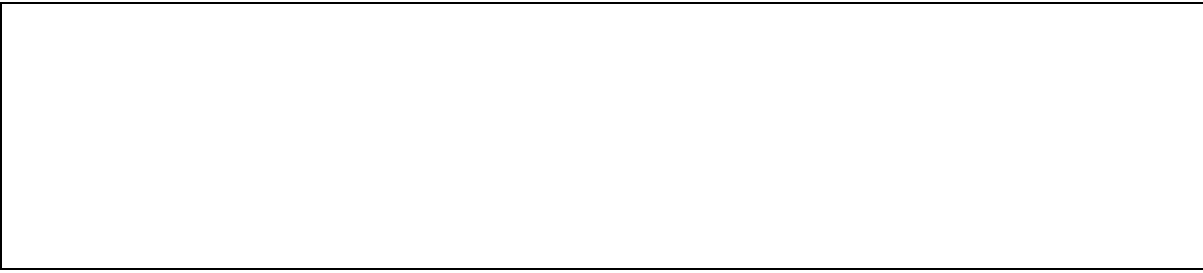
These distinctions between search, comparison and booking are frequently blurred, as larger online platforms perform various functions. They also own and have commercial relationships with other online platforms, such as Priceline's ownership of Booking.com and KAYAK and Expedia's of trivago.

OTAs enable customers to search for hotels using a variety of criteria such as location, rating and cost and to compare the venues which appear on search, however the default search order is determined by commercial factors. When a booking is made by the consumer the hotel pays a commission of between 15 and 25% of the room price to the OTA.

Metasearch engines show prices and venue information from multiple sources (including both online platforms and businesses), enabling customers to compare venues. Metasearch engines charge for referrals to booking sites and sell advertising rather than charging a commission.

Despite the many functions carried out by these platforms consumers looking for comparison tools often search first on TripAdvisor before booking on another platform, such as an OTA or restaurant booking platform. Customers search to find venues which meet their needs, including price requirements. They believe OTAs provide the best price. The popularity of metasearch engines often seems to derive from customer reviews, perceived to be generally independent and reliable, whilst also providing practical information for comparing suppliers.

Advertising on both OTAs' and metasearch sites often suggests that by searching the customer can find the best available deals and a guarantee of the best price. In many cases this is misleading, since parity clauses in OTA contracts result in prices that are the same across the market. Other aspects of DCTs are also misleading and confusing because websites are not transparent and default results are often dependant on commercial considerations of which the consumer is unaware, as explained in our answers below.



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

Consumers do not choose from a range of varied DCTs because the majority look only at the first page or so of search results.

Consumer searches start on search engines, with the clear majority of customers using Google. Google determines the results consumers will see by selling advertising to platforms and suppliers who wish to appear amongst the highest placements on the first page or two of consumer searches. Google also allows suppliers to bid on AdWords. (When used by a customer on a search these words trigger the platform or supplier's website). Searches for hospitality venues show DCT platforms and hotel advertisements first (marked Ad) with other search results, often including the same platforms, 'below the fold'.

It is therefore the platforms with largest market share, which can afford to pay, which appear prominently on search. As a result, the major DCTs continue to grow in size and market share and consumers generally do not see alternatives. Priceline group (Booking.com) has over 60% and Expedia about 20% of the European market and are amongst Google's largest customers¹, with Priceline reported to have spent \$1.8 billion on AdWords in 2014. TripAdvisor is similarly able to purchase advertising. These advertisements allow DCTs to appear first on search and only the very largest hotel chains can compete to get their own websites visible. However, even our larger members are struggling to compete with the online presence of the large DCTs.

This situation is made worse by the fact that, as a BHA hotel member tells us, anyone can bid on a hotel's own trademarks and keywords and essentially divert consumers away from the hotel's direct website. This might be the case when a consumer enters a specific hotel name, for example, and is clearly looking for that hotel in particular. This operates to the detriment of the hotel which has built up the brand and created a relationship with the consumer in question. Additionally, Google's introduction of hotel price ads has increased the cost of sales generated through Google by five or six times.

Analysis by a member of the BHA has shown that customers will usually book at the first website shown on metasearch if prices are the same, which is usually the case because of OTA parity clauses. OTAs' relationships with metasearch engines and ownership of some of the larger sites², seems to enable their websites to remain at the top of the metasearch search results, so, while consumers may click to verify price with the hotel, they usually book on the OTA website (unless there are lower prices on hotel websites, rarely the case in the UK, as parity clauses prevent variation in price).

SMEs especially find the invisibility of their websites frustrating.

'Their IT departments have set up algorithms on all search engines preventing the general public from having a choice and finding exactly what they are looking for. Many Internet search engine pages and now only full of sponsored ads by booking.com, Trafalgar, last minute.com et cetera so when anyone tries to find a specific page it cannot be found. We have had previous guests who cannot find a contact deal details, even a search for our own website still leads them to booking.com et cetera where they finally make their reservation as they give up trying to find us.'

¹ Hotrec hotel distribution study, 18 July 2016

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

Consumers expect DCTs to provide an efficient and convenient service in a worldwide market. One which is free to use and impartial, offering accurate and useful information relating to their search and with comparison of the price and quality of hospitality services offered.

Most seem unaware that a handful of key platforms, often owned and associated with each other, control the market in which DCT and suppliers' costs spiral and prices increase, creating a structure which works in a circular way to reinforce already powerful platforms. This is in part because information displayed on websites is often not transparent and can be misleading.

'Their huge size and marketing muscle effectively bullies us into submission. We use booking.com which then means that any online search grower hotel name or related search has a booking.com banner advert at the top of the first page. We cannot compete with that and it drives our customers through to the OTA because they click firstly link they see that relates to us.'

The key issues include:

- The parity clauses included by OTAs in their agreements, which produce an anti-competitive market and increase prices;
- The amount of commission charged by OTAs (which has risen from 5% to 25%) and is included in the price of the room;
- The effect of layers of costs involved in the search to booking process - between initial search on Google, to comparison on metasearch before booking on OTA. These steps involve a variety of advertising and commission costs.

The consumer when faced with a plethora of similar sites tends to use the one which guarantees the best deal and appears in front of them, without having any clear and transparent information to inform their decisions. The consumer is also largely unaware of the factors which influence search results and price. Their expectation of an impartial response to search, relevant to their needs and of getting the 'best price', is seriously undermined.

'The cost of competing for top placements on metasearch sites has risen due to an emphasis on the amount of the bid for placement over criteria such as price or quality. There is of course little price differential because of the parity clauses included in OTA contracts with hotels. OTAs are therefore able to outbid hotels placement in metasearch'.

'OTAs charge commission of between 15 to 25%, as the share of business which OTAs bring to a hotel increases, so does the hotel tariff. Thankfully, we have a relatively small percentage of our business coming through OTAs but our prices have increased across the board by around 5% to cover these commission charges. I know of some hotels who claim that their general tariff has increased by 10% to cover OTA commission. By comparison the conventional travel agent charges 8% commission and their involvement is normally much more labour-intensive.'

'Booking.com and others compete against us as of end or causing an unfair marketplace whereby we have to pay per click to compete against a partner who will also charges a commission for booking.'

² The Priceline Group (also owner of Booking.com) owns Kayak and Expedia owns Trivago. Booking.com also has a strategic partnership with TripAdvisor.

Another key concern affecting these issues is the lack of transparency of online platforms, dealt with in the following question.

Reviews are also of relevance and a priority for consumers. They have transformed the way in which hotels and restaurants are chosen and booked by customers and are a useful marketing tool for suppliers, which influences 93% of customers.³

The CMA has done much to provide guidance on how reviews should be managed. Inevitably it remains the case that fraudulent reviews, good and bad, will sometimes escape the automated review systems of DCTs. Despite the sophistication of many consumers, a malicious review can have a serious effect on a supplier, whilst a false good review can spoil a consumer's holiday. A rapid response is needed from all metasearch engines in these cases, focusing on the need to remove reviews quickly and with an independent system of review to find solutions when necessary.

In short, it is the increasing wealth and dominance of the largest DCTs and their connections with related platforms which can have damaging effects on the consumer. These effects are often unclear and the consumer assumes a business model based on transparent business practices which enable the customer to make an informed choice.

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

Consumers benefit from a wide choice of suppliers, the ability to make comparisons between them and the convenience of booking online.

However, consumers are often unaware that the choices they make are based on commercial factors of benefit to DCTs which may not always reflect their search requirements (see our answers above).

Online platforms should be transparent in the way they present information to consumers:

- indicating how search order is determined, especially when it is because a higher commission is paid by a supplier wishing to appear higher on the list;
- indicating the amount of commission paid to the OTA and included in the room price;
- providing the precise criteria used when giving star ratings to venues, especially if those ratings are given in return for commercial value to the OTA;
- providing customer details to the suppliers to enable them to manage the customers stay and improve the quality of the service enjoyed.

In the absence of this information consumers cannot make informed decisions.

There is also little competition between the DCTs in our sector. Although the consumer may feel there are a lot of comparison tools to use, in practice they often belong to the two large players who keep distinct brands, even though the terms and conditions used by each entity with their suppliers are increasingly the same.

³ European commission, study on online consumer reviews in the hotel sector 9 June 2014

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

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

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

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

It is no longer feasible for hospitality venues to operate without online reviews or sales, as many comparison searches and bookings for hotels are made online.

In a survey conducted by the BHA of its members last year, hotels confirmed that 47.4% of bookings came via OTAs with an average commission of 15.8% on sales. Whilst in a recent European study, direct hotel bookings were said to have dropped to 55%.⁴

Unfortunately given the difficulty of being visible on Google, as discussed above, even specialised OTAs, relevant to specific customers' needs are unable to provide an alternative booking route. When start-ups have some success, they are quickly acquired by the larger groups. Hotels are therefore obliged to use the two largest OTAs, which generate the bulk of bookings.

As a result, there is a circle whereby the larger platforms continue to grow and the smaller innovative platforms are unable to compete. Hotels, especially SMEs, have little or no negotiating position and must accept terms in contracts which perpetuate this anti-competitive market in which OTAs' parity clauses produce similar pricing across the market and the inability of hotels and OTAs to compete with one another.

Furthermore, as the two large players are so dominant online, and given their acquisition of other OTA brands, hotels are in effect forced to use these companies.

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

Our hotel members have told us that OTA's provide

*'Increase in business and exposure to a wider audience.
More exposure to potential guests, therefore increased sales'*

while metasearch engines, such as TripAdvisor, are seen as useful since they provide a

*'one-stop shop for travellers' and
'The ability for a service provided to reach a wider international audience without extra work or language translation issues'*

⁴ Hotrec hotel distribution study, 18 July 2016

These comments were tempered by the concerns mentioned in previous questions, which have become more marked since the BHA survey was undertaken at the end of last year.

Members have expressed concern that independent SMEs are seriously affected and the industry has already seen an increase in branded hotels as independents are unable to compete. These effects are the result of the difficulties mentioned above, such as the increase in commission rates and rate parity alongside the invisibility of hotels' own websites.

SMEs have difficulty meeting overheads, particularly as pricing has not risen in line with new costs. Larger chains try to compete by increasing their advertising budgets to improve their visibility online and some hotel advertising budgets have increased by 40%.⁵

Unfortunately, OTAs are a double-edged sword, they provide a market but at a heavy additional cost to suppliers and consumers. This presents a threat to SMEs and even large chains whose advertising budgets have, in some cases, almost doubled in an effort to compete.

Advertising costs payable by and to DCTs preserve the power of existing platforms whilst simultaneously creating a profit centre in advertising. Despite the greater ability of SMEs to reach the market, welcomed with the advent of DCTs, the position is changing. It seems to indicate less choice of independent hotels and the capacity of all hotels to offer improved quality and take innovative new directions for the benefit of their guests.

Finally, DCTs make it more difficult for hotels to engage with customers. They act as a barrier, inhibiting the direct hotel/host relationship with the guest and the hotel's capacity to provide the best service. Hotels pride themselves on the hospitality they deliver but find that it is difficult to provide the usual level of care to guests booking through OTAs, since OTAs often do not provide information pertinent to their visit, such as the reasons for the customer's visit and their specific needs.

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

Hospitality operates in a varied and wide-ranging business sector. It includes large hotel chains, independent hotels, bed and breakfasts, home lettings and self-serviced apartments. 60% of hotels in Europe are small independents employing less than 10 people, only 16% of room rooms belong to the top five hotel companies.⁶

Hotels and restaurants compete in all sorts of locations from cities to seaside resorts and rural retreats. Competition with other cities or resorts is sometimes local, with many venues situated in the same location and sometimes international. Sometimes competition is influenced by factors outside the industry's control, such as the effect on potential tourists of the level of VAT in the UK versus other countries but this constant pressure makes venues adept at finding ways to compete in providing the most professional service and best prices.

Unfortunately, the digital world of DCTs does not provide a level playing field and many restrictions are placed on the industry, including all those mentioned in answers above, affecting both the price paid by the consumer and their experience of hospitality in the UK.

The competitive nature of the hospitality industry provides a contrast to the OTA market which in a recent survey showed two OTAs, Booking.com and Expedia and HRS controlling 80% of the European market.⁷

⁵ Information supplied from a BHA member's analysis.

⁶ Hotrec hotel distribution study, 18 July 2016

⁷ Ibid

'All those platforms are part of companies which operate globally with little respect the local economies.'

' Many online platform businesses are buying up other online platform businesses. Expedia Inc has so many businesses it is acquired for example more recently well and now orbitz'.

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

Please see answers to previous questions. As noted above in greater detail the key issues include:

- The parity clauses included by OTAs in their agreements, which create an anti-competitive market and increase prices;
- The amount of commission charged by OTAs (which has risen from 5% to 25%) and is included in the price of the room;
- The layers of charges and commissions between initial search on Google, to metasearch, to OTA/ booking platforms which affect the consumer by increasing prices and sometime give results which do not prioritise the consumer's search criteria, as mentioned in question 2.
- Lack of transparency from online platforms.

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

The larger hotel companies have introduced loyalty programs for customers, one of the ways in which they are permitted under their agreements with OTAs to offer a better price to customers who book directly with the hotel. Advertising has been used to encourage consumers to book directly and to join loyalty programs to obtain discounts and loyalty rewards.

In some instances, hotels have attempted to offer lower prices to consumers in countries where parity has been found to be anti-competitive or, in France, illegal. These actions have been discouraged by OTAs who threaten hotels with delisting and 'dimming'. Many hotels were dimmed across Europe this summer, for example, when hotels tried to offer lower prices to guests who booked through their hotel loyalty scheme. The BHA receives comments from its members on these issues fairly frequently, invariably they wish to remain anonymous as they cannot afford to disagree with the dominant OTAs.

Theme 3: Competition between DCTs

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

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

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

There is little competition amongst OTAs for the reasons given above, the largest platforms control 80% or more of the market and impose restrictive agreements on hotels. They are also each more dominant in one region than another – Expedia is the main player in the US, while Booking.com leads in Europe. Whilst price parity clauses ensure that prices are the same across OTAs (and the market), price competition is therefore minimal – and even rendered impossible. The introduction of 'narrow parity' has not been effective in producing varied prices, explained in the footnote below.⁸

OTAs and metasearch engines work together and are often part of the same group – The Priceline Group brands include Booking.com, priceline.com, agoda.com, KAYAK and Opentable and Expedia brands: Hotels.com, trivago hotwire.com, travelocity, Orbitz worldwide. Whilst these companies may have arm's-length relationships, in the BHA's opinion, this is not conducive to competition.

BHA members report, anonymously, that when they offer a lower price to others, OTAs try to curtail their efforts, most often by moving the hotel to a lower position in the listings or removing them from their preferred programme. Recent reports in the press describe Expedia engaged in a practice known as 'dimming' (hotel photographs are removed from the site making it unattractive to the consumer) in an effort to persuade hoteliers to act in accordance with their wishes. This has apparently now ceased but similar methods such as delisting are still in use. These practices are indicative of a lack of competition between platforms and an inequality of bargaining power between DCTs and suppliers.

'Restrictive pricing. They all say that we cannot charge less than they do but that we can offer different pricing to other OTAs. However, as they all have the clause not less than us they effectively fix a single price and remove competition.

It is tantamount to price-fixing when the platform contracts the operator to giving best prices and best price guarantee to them. Businesses should be free to choose which price strategy they want and decide which price to give to whom: direct booking or via OTAs.'

⁸ Previously hotels parity clauses in OTA agreements prohibited hotels from offering prices online which were lower than those offered to the OTA with which they were contracting. This restriction applied equally to a hotel's own online sales and to other OTAs which it authorised to sell rooms.

After the anti-competitive aspects of these wide parity clauses had been examined in Europe, with varying results, Booking.com and Expedia modified their parity clauses and applied the modified version, sometimes called 'narrow parity' described below, across Europe (except where illegal (France) or found to be anti-competitive (Booking.com in Germany)).

These clauses allow a hotel to offer other OTAs lower prices but the hotel may not, itself, offer better terms on its own website than those agreed with the OTA with which it is contracting. In practice this has not increased competition and prices remain the same, since, amongst other reasons, the combination of 'narrow' rate parity and the hotel's 'best price guarantee' means that hotels cannot discount prices through rival OTAs.

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

N/A

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

At present two large OTA groups control 80% of the marketplace, making barriers to competition significant.

New OTAs, however innovative, or niche, are invisible on search and therefore cannot compete with the larger players. Even those new OTAs directed at specific markets cannot be offered more attractive pricing structures by hotels, as parity clauses prevent price differentials. Modifications to parity clauses do not work for the reasons given described in question 10 above and in the footnote.⁹ If a supplier were to offer a new OTA lower room prices the dominant OTAs would insist upon having the same prices.

Parity clauses present a barrier to competition. It is essential to the future of a competitive hospitality industry that rate and— and other condition - parity is banned. The focus would shift to the needs of the consumer, both in selecting hotels to meet their search criteria more closely and in providing a level playing field for suppliers and DCTs. New players would be free to enter the market and compete on a more equal footing, with an emphasis on consumer interest.

⁹ See also footnote 8. Although a hotel may offer other OTAs lower prices it must not itself offer better terms on its own website than those agreed with the OTA with which it is contracting. In practice that OTA would insist on having the same price and in any event the combination of narrow rate parity and the hotel's 'best price guarantee' means that hotels cannot discount prices through rival OTAs.

Theme 4: The regulatory environment

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

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

Competition law, consumer protection rules and data protection law are all relevant to the regulation of OTAs and metasearch engines. These laws are well constructed and, in general, concerns relate to enforcement.

Resolving disputes by negotiation is not possible because of the unequal position of supplier and platform and litigation is a slow and costly process, one which is simply beyond the scope of most of the businesses in the hospitality industry.

The BHA therefore welcomes the House of Lords Select Committee's view¹⁰ that increased resources for competition authorities would be an efficient way to address concerns about enforcement and that regulators should robustly enforce against online platforms they believe to be in breach of the law.

The Inquiry's proposal of greater use of interim measures to enable disputes to be resolved more quickly is also welcomed, as a practical solution which can be applied in the short term. In the longer term, however, we hope for more specific, sector based, obligatory codes of practice for online platforms and more rapid resolution processes.

It is clear that the industry would like online commerce regulation to be more closely and independently monitored, so as to produce a fairer and more competitive market where consumers and businesses can operate on an equal footing:

'They are becoming monopolistic and don't appear to have independent regulation of their claims. Size an online presence appears to raise them above being questioned'.

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

The most important area in which DCTs appear not to meet competition requirements is in the imposition of parity clauses on suppliers, as mentioned in the preceding questions.

DCTs also appear not to meet some consumer protection requirements in areas such as:

- rankings which are sometimes given based on the payment of additional commission to the OTA, where this is not clear to the consumer;
- Star ratings where the criteria for awarding stars is not transparent;
- searches which produce 'favourites' of the OTA without an explanation of how a favourite is determined, in practice sometimes because of the commercial value of the supplier to the OTA;

¹⁰ Inquiry into Online Platforms and the Digital Single Market

- claims that prices are the best and lowest price, often involving complex explanations of why a discount is being applied relating to prices over a 30-day period.

Protection is needed for those suppliers experiencing unfair practices or indeed anti-competitive behaviour, as fear of retaliation prevents suppliers from raising their concerns.

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

See above, in particular questions 13 and 14 for the need for more robust enforcement dealing with systematic abuse as well as individual cases.

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

The most critical development will be the outcome of the investigation of parity clauses.

Although European countries have a fragmented approach to competition law relating to parity clauses, it is interesting that when tested in court and with legislation in mind, price parity has been found to be anti-competitive, in cases against HRS and Booking.com in Germany and prohibited by legislation in France.

The BHA welcomes the CMA's study of this topic and looks forward to the European Commission's report which we hope will provide clarity and consistency, leading to the abolition of price parity clauses. We regard this as critical for our industry in the UK and indeed for Europe, since hospitality is composed of many independent hotels and SMEs, which are under threat because of the anti-competitive nature of the marketplace and in which larger chains are also affected, including being compelled to increase advertising budgets to compete with huge online agencies, to the detriment of the services they supply to consumers.

These factors are compounded by the lack of information as to how online platforms present information to the consumer and their lack of transparency. Also significant is the coalescing of DCTs and the merging of functions, such as search and booking. This is likely to reduce competition further and align activities which should operate at arm's length in a competitive market.

Other comments and further contact

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

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Would you be willing for us to contact you to discuss your response?*	Yes
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Thank you for taking the time to complete this form.

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

Or post it to:

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