



**Inquiry into impacts on local businesses in
Australia from global internet-based
competition – Submission of
Accommodation Association of Australia**

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EXECUTIVE SUMMARY

- Australia's accommodation industry is the subject of significant disruption from online businesses, the majority of which have their headquarters overseas.
- There are two dominant online travel agencies operating in Australia – Expedia and Priceline – and between them, they command almost 85 per cent of all online accommodation bookings in Australia.
- Operators of accommodation businesses are being forced to swallow constant increases in commissions imposed on them by Expedia and Priceline.
- Commissions imposed on accommodation businesses have risen from 5-10 per cent to the point where they are now, in many instances, 20-25 per cent.
- The ACCC has conducted at least two different investigations into competition and consumer issues surrounding the online travel agency market in Australia, but so far, it has not taken action which delivers significantly better outcomes for consumers.
- The Accommodation Association strongly supports the Australian Government making it unlawful for online travel agencies to impose price-parity clauses on tourism accommodation businesses in Australia.
- Airbnb and other sharing economy platforms which facilitate the provision of tourism accommodation to consumers are subject to little or no regulation – which contrasts with traditional hotels, motels and serviced apartments.
- When it comes to regulation of tourism accommodation in Australia, there must be a level-playing field.
- Despite now having a major foothold in many key Australian markets, Airbnb has struggled to state how many people in Australia it employs.
- Airbnb has constantly dodged questions about how much tax it pays in Australia.

INTRODUCTION

1. The Accommodation Association of Australia is pleased to provide the following submission to be considered as part of the inquiry into impacts on local businesses in Australia from global internet-based competition, which is being conducted by the Parliament of Australia's House of Representatives Committee on Industry, Innovation, Science and Resources.

ABOUT THE ACCOMMODATION ASSOCIATION

2. The Accommodation Association of Australia (the Accommodation Association) is the national industry body for Australia's accommodation industry.
3. Members of the Accommodation Association include major hotels, resorts, motels, motor inns, serviced and holiday apartments, bed and breakfasts, guesthouses, backpackers and timeshare establishments in metropolitan, regional and rural Australia, across all states and territories.
4. The Association's members include major hotel and motel chains, and serviced apartment groups.
5. The Association's membership base includes almost 2000 properties and more than 110,000 guest rooms.

TOURISM AND ACCOMMODATION – OVERVIEW

6. Tourism directly contributes \$52.918 billion to Australia's gross domestic product (GDP), 3.2 per cent of Australia's total GDP.¹
7. There are 580,200 people directly employed in the Australian tourism industry – 4.9 per cent of total employment.²
8. Accommodation businesses add \$7.462 billion of gross value to the Australian economy.³
9. There are 82,800 people employed in the accommodation sector of the Australian tourism industry.⁴
10. There are 4445 tourism accommodation establishments in Australia.⁵
11. There are 249,131 tourism accommodation rooms in Australia and 676,638 bed spaces.⁶

¹ Tourism Satellite Account 2015-16, Australian Bureau of Statistics

² Ibid

³ Ibid

⁴ Ibid

⁵ Tourist Accommodation, Australia, 2015-16, Australian Bureau of Statistics

⁶ Ibid

THE ACCOMMODATION INDUSTRY IS BEING SIGNIFICANTLY DISRUPTED

12. Australia's accommodation industry, including owners, investors, operators and the 82,800 people who are employed in the industry, is the subject of significant disruption from online businesses, the majority of which have their headquarters overseas.
13. The two most significant online disruptors of our industry are online travel agencies and Airbnb/other sharing economy accommodation providers.
14. The direct impact of both of these disruptors is jobs have been lost in the accommodation industry and there have been less taxation returns to government in Australia (government at all levels – federal, state/territory and local government).

TWO GIANT GLOBAL ONLINE TRAVEL AGENCIES ARE STRANGLING AUSTRALIA'S ACCOMMODATION INDUSTRY

15. The online travel agency market is one of the fastest growing, least regulated and most concentrated markets in Australia.
16. There are two principal players – Expedia Inc. (Expedia) and The Priceline Group (Priceline).
17. Between them, these two companies – and the many different online booking websites they own and control – command almost 85 per cent of online accommodation bookings in Australia.
18. What started out as websites which were designed to fill empty hotel rooms have become offshore leviathans who are slowly strangling Australia's accommodation industry.
19. In addition to its own brand, Expedia acquired Australian-based Wotif in late 2014 and its other online travel agency brands include Hotels.com, Trivago and Orbitz.
20. Expedia is listed on the US NASDAQ Stock Market and its revenue is reported to be in excess of \$US 8 billion.
21. The dominant online travel agency operated by Priceline in Australia is Booking.com. It is also listed on the NASDAQ.

EXPEDIA AND PRICELINE – A DOMINANT DUOPOLY

22. Expedia and Priceline are thought to be generating millions of dollars in profits each year from Australian (tourism) consumers.
23. These profits are directly drawn from consumers booking a room or rooms at a hotel, motel, serviced apartment or other accommodation establishment which is listed on the websites of Expedia and Priceline-owned online travel agencies.
24. Expedia and Priceline receive a commission on the rate of the room booked.

SKYROCKETING COMMISSIONS CHARGED BY EXPEDIA AND PRICELINE

25. When online travel agencies first entered the Australian market in the 2000s, commissions were 5-10 per cent, but as the online reach of Expedia and Priceline has increased – they are now two of the largest and most sophisticated e-businesses in the world – so have commissions.
26. Despite the accommodation industry sounding a warning to the Australian Competition and Consumer Commission (ACCC) about rising commissions in the lead-up to Expedia's acquisition of Wotif in 2014, in July 2015, operators of accommodation businesses received written correspondence from Booking.com that as of July 2015, it would be lifting the commission rate that it charges operators from 12 per cent to 15 per cent.⁷
27. Since then, commissions have increased even further, such that they are now in the order of 20-25 per cent.
28. In addition, because of the broad, global internet reach of Expedia and Priceline and that they focus on achieving the highest rankings on major internet search engines (by, among other things, buying out the names of Australian accommodation businesses on Google), "Mum and Dad" accommodation operators have next to no bargaining power with these global giants.
29. This is because if accommodation operators choose not to list their properties on these websites, then they risk losing a significant amount of their business, such is the reach and market dominance of Expedia and Priceline.
30. The result for many operators is they are forced to swallow constant increases in commissions as they attempt to remain profitable.

EXPEDIA AND PRICELINE'S DOMINANT DUOPOLY

31. With Expedia and Priceline commanding almost 85 per cent of bookings of accommodation made over the internet by Australian consumers, these two global behemoths have a virtual duopoly in the Australian market.
32. While other companies have operated in this market in the past, they have either gone broke or been swallowed up by Expedia and Priceline.

ONLINE TRAVEL AGENCIES – ACCC ACTIVITIES

33. The ACCC has conducted at least two different investigations into competition and consumer issues surrounding the online travel agency market in Australia, but it is the submission of

⁷ "Change in Commission Rate", communication from Booking.com, July 2015

the Accommodation Association that it has not taken action which delivers substantially better outcomes for consumers (and operators of traditional accommodation businesses).

34. Nearing the conclusion of one of the ACCC's investigations, members of the Accommodation Association received the following communication from the Netherlands-based Chief Executive Officer of Booking.com B.V., Ms Gillian Tans, which stated:

*"I would like to...personally inform you of the outcome of the recent agreement reached between the Australian Competition and Consumer Authority (sic) and Booking.com, whereas Booking.com has agreed to extend the commitments it has rolled out in the European Union to all accommodations in Australia."*⁸

35. On 2 September 2016 (just over one week later), ACCC Chairman, Mr Rod Sims (in a media release) stated:

*"Australian accommodation providers will now be able to tailor their offers to better meet the needs of their customers and their own businesses requirements. They will now be able to offer lower rates through telephone bookings and walk-ins, offer special rates and deals to customer loyalty groups, in addition to offering deals via Expedia and Booking.com."*⁹

36. Given the internet accounts for more than 80 per cent of all bookings made in accommodation businesses in Australia today and internet bookings weren't part of the (secret) deal between the ACCC and the global online travel agencies, the change Mr Sims referred to has had little or no impact on the behaviour of Expedia and Priceline.

37. The agreement between the ACCC and Expedia/Priceline has not been made public.

38. The ACCC – through a High Court judgment of December 2016 which found competition laws apply to relationships between operators and their agents in the aviation industry – has been given legal guidance (from the High Court) about how to break the Expedia-Priceline duopoly, but it is yet to take action which attempts to do this.

39. Adding to the anger among our members, in the Booking.com communication they received from Ms Tans, the terms and conditions covering the commercial relationship between Booking.com and accommodation businesses stated:

*"This agreement shall be exclusively governed by and construed in accordance with the laws of the Netherlands."*¹⁰

40. The Accommodation Association is supportive of the ACCC taking action to rein in the dubious conduct of the online travel agencies duopoly in the Australian market.

⁸ Booking.com email 23 August 2016

⁹ Media Release, ACCC, 2 September 2016

¹⁰ Booking.com email 23 August 2016

PARITY PRICING SHOULD BE BANNED

41. The biggest concern, by far, among members of the Accommodation Association about the conduct of online travel agencies centres on room-rates.
42. One of the standard clauses in commercial agreements which exist between a hotel (for example) and either Expedia or Priceline is that the hotel must not publicly advertise – including on its own website – a room-rate which is lower than that which is being displayed for their property on Expedia or Priceline online travel agency websites. This is known as “price parity”.
43. Such a requirement is hindering consumers from accessing lower room-rates from hotels, motels, serviced apartments and other tourism accommodation properties.
44. Given this, the Accommodation Association strongly supports the Australian Government making it unlawful for online travel agencies to impose price-parity clauses on tourism accommodation businesses in Australia.
45. Several European countries have either banned price parity or are giving strong consideration to banning it.
46. If parity-pricing was to be outlawed in Australia, another consequence is that more bookings would be made directly through the websites of accommodation operators, resulting in local jobs being created and more taxation being paid in Australia.
47. This is because Expedia and Priceline pay little or no tax in Australia and they directly employ very few people who are based in Australia.

AIRBNB/SHARING ECONOMY PROVIDERS ARE POORLY REGULATED

48. Airbnb and other sharing economy platforms which facilitate the provision of tourism accommodation to Australian consumers are subject to little or no regulation.
49. As a result, the Accommodation Association of Australia has been actively advocating for Airbnb and other similar sharing economy accommodation platforms to be more tightly regulated, notably by state/territory governments.
50. The number one priority for government when it is considering changes to the regulatory regime for short-term (or tourism) accommodation must be consumer safety.

LACK OF A REGULATORY LEVEL-PLAYING FIELD

51. In contrast to Airbnb/sharing economy properties, hotels, motels, serviced apartments and other forms of traditional tourism accommodation must meet strict requirements to help ensure the safety of their customers.
52. These requirements include, but are not limited to:

- Compliance with building fire safety standards (fire alarms, fire egresses, fire-fighting equipment, fire signage, emergency procedures and other safety and security requirements);
 - Having insurance in place which covers guests staying in a public place; and
 - Compliance with planning laws.
53. Hotels, motels, serviced apartments and other forms of traditional tourism accommodation must meet higher standards for disability access and accessible rooms than residential (Airbnb) properties.
54. When it comes to regulation of tourism accommodation in Australia, there must be a level-playing field, such that Airbnb and other sharing economy accommodation platforms must comply with the same regulations and legislation which apply to hotels, motels, serviced apartments and other forms of traditional accommodation.

AIRBNB DIRECTLY EMPLOYS VERY FEW AUSTRALIANS AND PAYS VIRTUALLY NO TAX IN AUSTRALIA

55. Hotels, motels, serviced apartments and other traditional accommodation businesses are far more labour-intensive than the likes of Airbnb-type (residential) properties.
56. Specifically, while the accommodation industry in Australia employs 82,800 people, sharing economy providers employ very few, if any, people directly at properties where they advertise rooms.
57. Despite now having a major foothold in many key Australian markets, Airbnb has struggled to state how many people in Australia it employs.
58. Airbnb has said publicly that in 2015/16, its guests supported over 14,000 jobs in Australia. Not only is this figure vastly inferior to employment in the traditional accommodation industry, “jobs supported” are not actual jobs.
59. In regional and rural Australian towns, sharing economy accommodation platforms, such as Airbnb, are hurting local economies.
60. This is because there are fewer guests seeking accommodation in these locations than, for example, in Australia’s capital cities, so even a minor drop in the number of guests staying at traditional hotels or motels results in job losses.
61. So concerned is the Accommodation Association about the negative impact of sharing economy accommodation platforms in non-metropolitan areas that it has said:
- “Sharing economy platforms are sucking the life out of hotels, motels and other compliant tourism accommodation businesses outside of our major cities. Operators of compliant tourism accommodation businesses in regional areas are, in many instances, hard-working family or ‘Mum-and-Dad’ outfits who have been barely making ends meet. They struggle to recruit and retain staff, they have had to contend with high penalty rates on weekends and public holidays and now Airbnb seems determined to try to put them out of business. Our industry isn’t frightened of competition, but compliant operators of regional tourism*

accommodation businesses are directly competing with Airbnb, yet Airbnb properties are subject to little or no regulation, unlike traditional hotels and motels.”¹¹

62. Airbnb has constantly dodged questions about how payroll tax it pays in Australia; indeed, how much tax it pays in total in Australia.
63. In a radio interview last week, a spokesman for Airbnb was questioned about how much tax the company pays in Australia and the spokesman refused to specifically provide an answer to this question, saying:
- “We pay all the taxes that we are required to pay in Australia. We’re a privately-held company and we don’t disclose the number.”¹²*
64. Lack of regulation and tax evasion which typify the presence of Airbnb and other sharing economy accommodation providers in the Australian market are tangible examples of how global internet-based competition is having a significant detrimental impact on consumers, as well as operators with properties in the traditional tourism accommodation industry.

CONCLUSION

65. The Accommodation Association would be pleased to provide the committee with further, more detailed information in relation to our submission by appearing before the committee.

Date: 1 December 2017

¹¹ Media Release, Accommodation Association of Australia, 12 July 2017

¹² Interview with Mr Brent Thomas, Head of Public Policy, Airbnb Australia/New Zealand, 774 ABC Local Radio Melbourne, Mornings, 24 November 2017