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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

HEARING ON ACROSS PLATFORM PARITY AGREEMENTS

-- Note by Hungary --

27-28 October 2015

This document reproduces a written contribution from Hungary submitted for Item 7 of the 124th OECD Competition Committee on 27-28 October 2015.

More documents related to this discussion can be found at www.oecd.org/daf/competition/competition-crossplatform-parity.htm

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1. General introduction

1. Price relationship agreements (like retail MFN provisions¹ or APPAs²) are not a new phenomenon, but with the appearance of online platforms their significance has increased considerably. In the last few years the number of such clauses in contracts related to online services has rapidly risen and competition authorities have shown enhanced interest in them.

2. The effects of such agreements on competition are not obvious, so investigating them is challenging. Retail MFN provisions or APPAs on online platforms have both possible positive and negative effects, appearing on either side of the two-sided market. The two-sided nature of the platforms plays an important role during the effect analysis as both consumers and service providers use the platforms. Intervening on one side can sometimes cause a serious, opposite effect on the other side.

3. It is generally considered that APPAs may have a negative impact on the ability of new entrants to enter the market, in extreme cases foreclosing them from the market. APPAs also often reduce the incentive of competitors on the (upstream) market to lower prices, thereby softening competition. They can also facilitate collusion by increasing transparency in the market and by making a deviation from a collusive strategy easier to detect.

4. It should be noted that APPAs may also have a number of positive effects. APPAs may more or less inadvertently reduce the searching costs of consumers, by leading to (more) uniform prices across platforms, while at the same time enhancing transparency on the consumer side. APPAs can also prevent 'free-riding' on the investments of more innovative market players, which might lead to more innovation and to competition in quality.

2. Hungarian experience

5. APPAs recently started to spread on the online market in Hungary. A few years ago, when competition was not as fierce in the online sector as today, platforms operated without APPAs. As international market players appeared on the market and national platforms faced more inland and outland competitors due to technical developments, APPAs appeared on the market (around 2008). The biggest Hungarian OTA copied APPAs from international players and has been using them since the launch of its website; however, for example, they have only been present in the food delivery sector since 2012. The spread of APPAs is likely to be connected to the fact that websites are becoming more sophisticated and the websites of hotels and restaurants are becoming competitors to platforms.

6. At present APPAs are being considered in two cases by the Hungarian Competition Authority (GVH): one is an ongoing sector inquiry on the online room reservation market and the other is a recently opened case on the online food delivery market³. Below you will find a detailed summary on the preliminary findings of the sector inquiry highlighting the role of APPAs on the online room reservation

¹ MFN provisions = Most-favoured-nation provisions

² APPA = Across-Platform Parity Agreement

³ In September 2015 the GVH opened a competition supervision proceeding against the biggest Hungarian online food delivery platform (Netpincer.hu). Similar to the OTAs the platform connects consumers with restaurants, coordinates orders and payments. Restaurants are subject to pay a fee only after an order is received. According to the investigated clause, restaurants are obliged to not offer lower prices than those agreed with the platform on their own websites or to other platforms (narrow MFN provision).

market. We would like to emphasise that the results are preliminary findings and that the GVH plans to publish the final findings of the sector inquiry at the end of this year.

3. Sector inquiry on the market of online room reservations

3.1 Background

7. The GVH initiated a sector inquiry on the online room reservation market in order to familiarise itself with and evaluate the processes involved in the direct and intermediate online sale of hotel rooms and other forms of accommodation. The sector inquiry had a particular focus on the so called ‘rate parity’ phenomenon⁴ used by online travel agencies (OTAs).

8. The inquiry was launched because the GVH identified circumstances which suggested that the use of ‘rate parity’ clauses may restrict price competition between OTAs offering the same hotel rooms. In addition, it was suspected that the identified circumstances may make it more difficult for competitors to gain ground on the market if they do not offer ‘rate parity’, prevent new competitors from entering the market, and also have an effect on competition between different sales channels. The GVH also acquired information suggesting that ‘rate parity’ plays an important role in the agreements made between hotels and reservation systems. At the beginning of the sector inquiry it was suspected that one of the most alarming consequences of ‘rate parity’ is that it can lead to the standardisation of room prices and can eliminate intra-brand competition.

3.2 Procedural steps

9. As one of the first steps of the sector inquiry the GVH conducted an examination of the prices of various reservation websites in 2013 focusing on potential price matching. The examination covered 24 sites, comparing the prices of a standard room in Budapest at one of the city’s renowned hotels, for one night, for two persons, with identical conditions. The results of the examination revealed that the prices listed on the different sites were almost completely matched.

10. During the course of the sector inquiry requests for information (RFIs) were sent out to different market players in three rounds. In the first round, RFIs were sent to 50 accommodation providers (big hotel chains, hotels and guest houses), 24 OTAs and coupon sites, 4 relevant professional organisations and associations, and 7 travel agents. In the second round more detailed RFIs were sent to the 14 OTAs operating on the Hungarian market. After Booking.com published its commitments about the so called ‘narrow MFN’ clause all of the above-mentioned OTAs, accommodation providers and associations were contacted again.

11. While the information gathered from the above-mentioned market players formed the main basis for the launch of the sector inquiry, the GVH also paid special attention to the relevant international proceedings and participated at the meetings of the European Competition Network.

⁴ ‘Rate parity’ agreement was a definition used in the sector inquiry for an APPA. It refers to an agreement made with an OTA in which a hotel promises not to offer lower prices than those agreed with the given OTA on its own website or to other OTAs. If an accommodation provider breaches this clause, its reservations can be blocked on the OTA’s website or its contract can be terminated.

12. Since the online hotel booking market is a two-sided market, the GVH ordered an online consumer survey⁵ to understand better the consumers' decision making process and preferences during the online booking process. The main goal of the survey was to reveal consumers' booking preferences and to ascertain consumers' expectations and experiences related to hotels (including other types of accommodation providers)⁶ and online travel agencies.

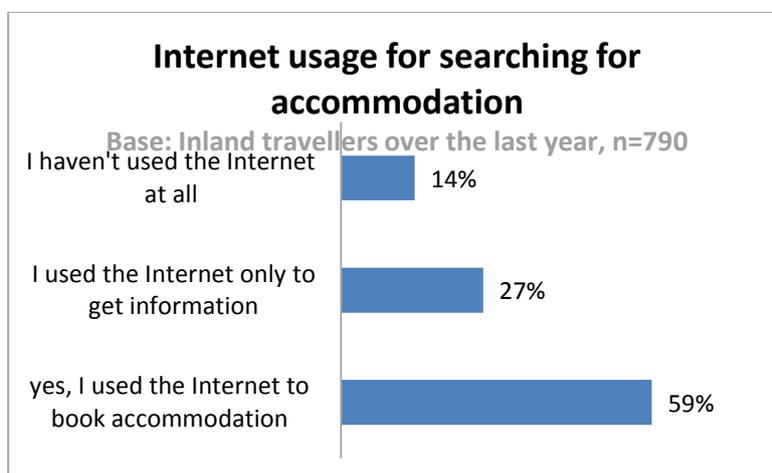
13. The survey consisted of a 20-minute online questionnaire sent around in August 2015. The preliminary results were presented to the GVH in September 2015. The target group of the survey was Internet users between the ages of 18 and 65, who had travelled (i.e. booked accommodation) inland or abroad at least once during the last year. There were 800 consumers in the sample, which represented the target group along the main demographic features of Hungarian citizens.

14. The sample was further divided into sub-groups based on travel frequency. 38% of the sample belongs to the so-called 'heavy' traveller sub-group; another 38% belongs to the 'medium' traveller sub-group, with the remaining 24% belonging to the 'light' traveller sub-group. (These categories were defined by self-classification.)

15. Some interesting findings of the consumer survey are presented below. It is important to note that the final findings of the sector inquiry will not necessarily coincide with the findings of the consumer survey.

3.3 Findings of the survey

16. The use of the Internet to obtain information and to book accommodation is relatively common among inland travellers. Only 14% of the target group did not use the Internet at all during the travel planning process, while almost 60% also used the Internet for booking purposes. (In the 'heavy' traveller sub-group this rate was even higher; with 68% of them booking online).



⁵ The survey was conducted by NRC Piackutató Kft., which is a Hungarian research company specialised in online research.

⁶ Under the term 'hotel' hereinafter we understand both hotels and other types of accommodations.

17. In terms of information sources and booking options⁷, the accommodation providers' own websites and online travel agencies (OTAs) are the most used platforms. There are minor differences though in the ranking of different platforms among inland and outland⁸ travellers.

18. Most inland travellers search for accommodation-related information on the accommodation providers' own websites (63%), while 50% of them use OTAs. In contrast, outland travellers are slightly more likely to use OTAs than the accommodation providers' own websites (49% vs 47%).

19. When it comes to the booking process, inland travellers generally prefer to be in direct contact with their chosen accommodation provider: they either arrange the booking on the accommodation provider's own website (54%) or call the accommodation provider directly (48%). OTAs are only the third option for them, as 42% of the respondents chose this option.

20. As regards outland travellers, there is not a big difference between the information searching platform and the booking platform, only the order of the most used platforms is reversed: 44% book on their chosen accommodation provider's own website, while 42% on OTAs.

21. Despite the fact that there are numerous online travel agencies, the market of OTAs seems rather concentrated with a few key players. Apparently Hungarians prefer Hungarian OTA websites compared to the biggest, well-known international websites. (For example expedia.com was mentioned by only 1% of the respondents as a used online travel agency). Although booking.com is the second most used website for information research and hotel booking among inland travellers, it is significantly less popular than the most popular Hungarian OTA website (szallas.hu). For information research 83% of the respondents use szallas.hu, while only 40% of them use booking.com. The difference is almost the same when it comes to accommodation booking (63% vs. 24% in favour of szallas.hu). It is also worth highlighting that among the users of booking.com people with a higher level of education and living in the capital, as well as 'heavy' travellers are significantly overrepresented. (According to the consumer research 'room exchange' websites – such as Airbnb.com – are not yet widespread in the search for accommodation.)

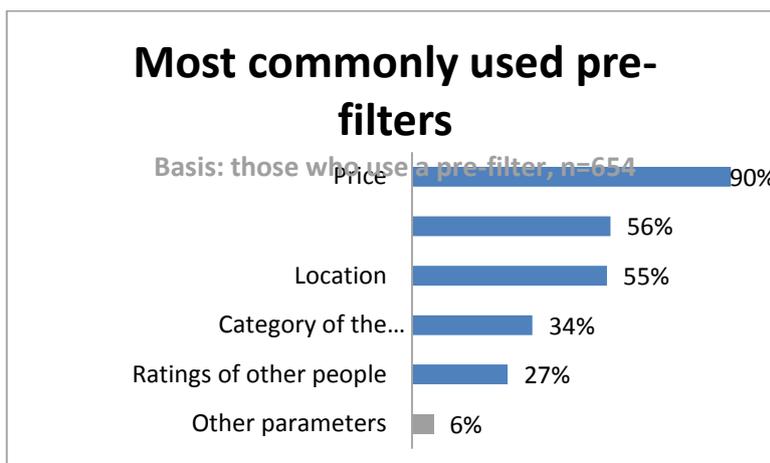
22. According to the survey the most important factor of choosing the most popular OTAs is the wide range of accommodation providers available on them. This result shows that network effects play an important role on the online room reservation market.

23. Almost two-thirds (62%) of the respondents review all of the listed accommodation providers⁹, justifying the use of pre-filters, which are used by 68% of the respondents at least occasionally. Not surprisingly the most commonly used (90%) pre-filter is based on the price of the accommodation, followed by available services (all-inclusive, bed and breakfast, etc.) and location (56% and 55% respectively).

⁷ All of the questions related to the use of different platforms for information research and booking allowed for multiple answers.

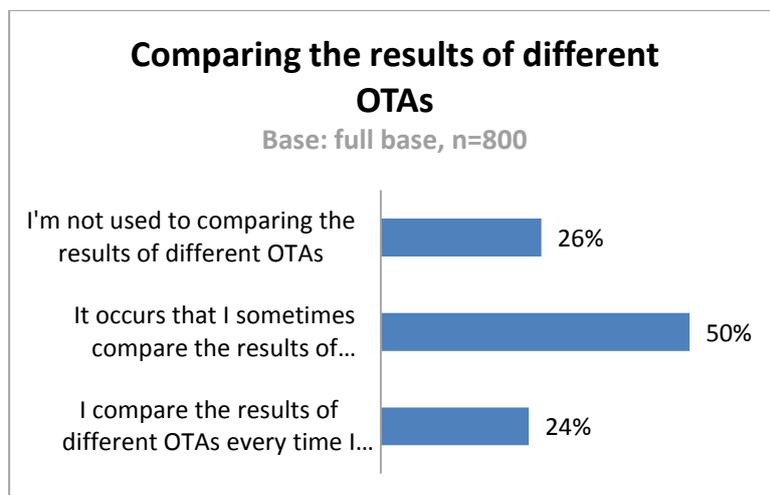
⁸ Outland travellers = People who travel abroad.

⁹ 34% of the respondents review the first few pages of the results, while only 4% review only the matches on the first page.

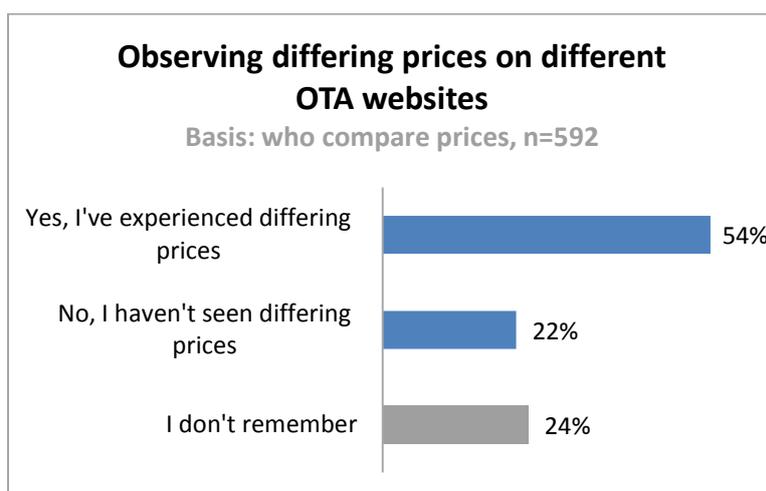


24. It might be argued that APPAs lead to matching prices across different platforms. In view of this it is interesting to know whether travellers compare different OTAs.

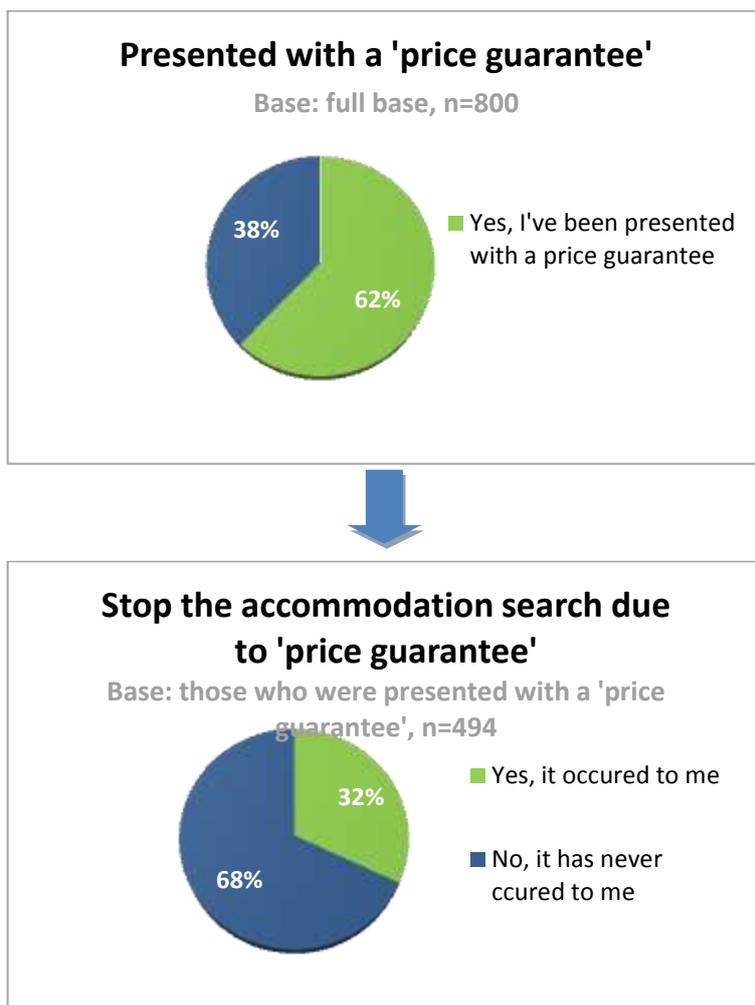
25. According to the survey almost three-quarters (74%) of the respondents compare the search results of different OTAs at least occasionally, with 24% of these making comparisons every time they search for accommodation. This result shows that the presumed benefit of reduced searching costs due to the use of APPAs does not clearly show up.



26. The main goal of the comparison of OTAs is to check prices. Given the fact that there is apparently a widespread use of APPA clauses it is quite surprising that 54% of the respondents who compare prices said they have experienced differing prices for the same accommodation on different websites, and only 22% of them said that they have found the same prices for the same accommodation on different OTAs. It must be noted that almost half of the respondents who have experienced differing prices could not name the site with the lowest price.

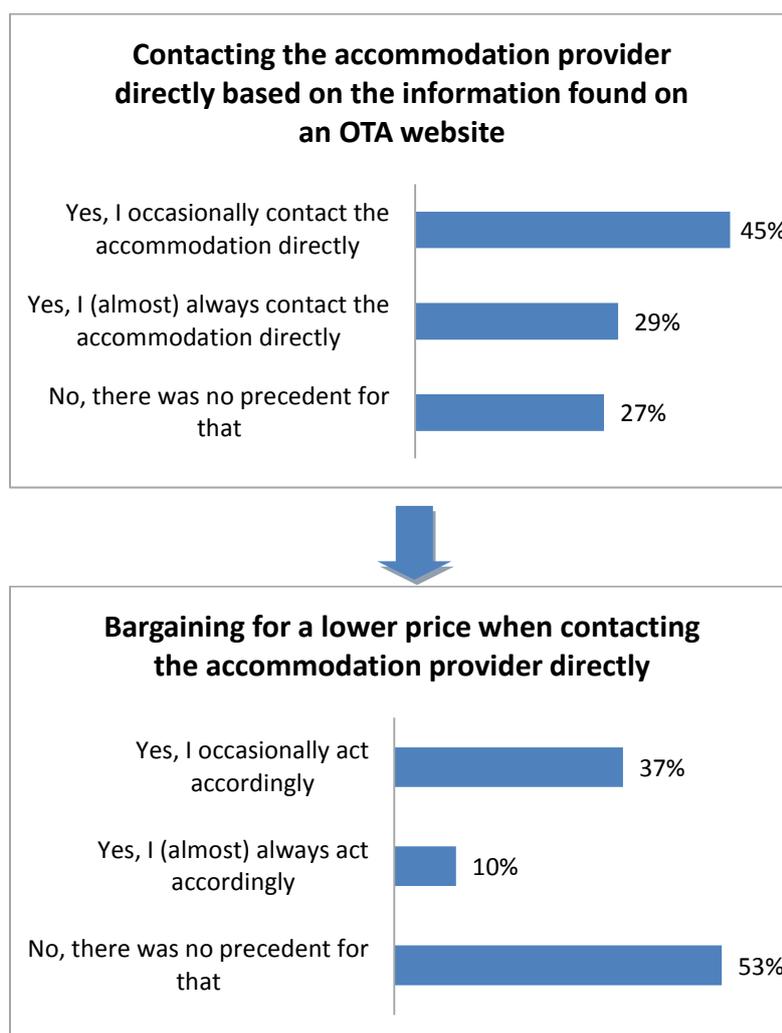


27. OTAs sometimes try to lure travellers with the promise of a price guarantee. (The use of MFN clauses might be a facilitating factor to meet this promise.) According to our consumer survey 62% of the respondents have already been presented with a price guarantee by OTAs. It might be argued that it has proven to be a successful marketing tool, as 32% of these respondents did not check the price of the same accommodation on any other website as a result of the price guarantee.



28. As mentioned above, it is often cited in the defence of MFN clauses that they can prevent ‘free-riding’ on the investment of OTAs’ (in search engines) by preventing hotels from offering better terms to travellers via the hotels’ own websites or directly.

29. The results of the consumer survey show that this defence might be valid, as OTAs often play the role of an information gathering portal. After searching for information on an OTA’s website 29% of the respondents always contact the accommodation provider directly (via e-mail, on the phone or personally) based on the information found on the OTA’s website, with a further 45% doing this occasionally. The reason behind getting directly in contact with the accommodation provider is often to try and negotiate a lower price than the price found on the website of the OTA in question. Almost half of the respondents who got in direct contact try to negotiate on the price occasionally.



4. Preliminary results gained from the inquiry

30. From the information gathered in the sector inquiry the conclusion might be drawn that wide MFN clauses are capable of eliminating intra-brand competition. The answers of certain market players indicated that one of the most important characteristics of an APPA is that a single agreement with a bigger platform is enough to standardise the prices of an accommodation/service provider on every platform and sales channel. They argued that if an accommodation provider signs a platform parity agreement with an OTA, in order to comply with it, the accommodation provider has to insert the same clause into all of its contracts. In their opinion, as a result of this mechanism only one platform's behaviour can affect the behaviour of all other market players.

31. As the offline channels cannot be monitored easily it was hard to evaluate the actual effect of APPAs on offline prices, but according to the available information the prices of a given room were standardised on all online and most offline platforms (with a few possible exceptions). This is due to the fact that with APPA clauses accommodation providers do not have any incentive to decrease prices for one partner, as it would mean that they have to give the same lower price for other partners.

32. At the same time inter-brand price competition strengthened, as consumers have more information and they can easily find and compare the offers of different competing accommodation providers. Altogether it appears that transparency grew on the market as the result of the use of APPAs.

33. As the online segment is developing extremely quickly the GVH had difficulty measuring the actual effect of APPAs on market entry. There is a noticeable first mover advantage in the market, as the undertakings entering the market at an earlier stage strengthened their position on the market gradually. It is likely that APPAs had a prominent role in this process.

34. Along with first mover advantage, network effects also play a prominent role in shaping the market. The GVH has found that the biggest barrier of entry is the number of accommodation providers available through an OTA's website. New entrants can only be successful if they can contract a wide range of accommodation providers, as only a wide selection can convince customers to use the new entrant's platform and make reservations on it. The lack of price competition between OTAs (partly due to the use of APPAs) can make it even more difficult to compete for customers.

35. Fourteen OTAs operated on the Hungarian market when the inquiry started. Since then two market players have left the market, and the revenue of some smaller OTAs has decreased, but new innovative players (like anoma.com, and other websites offering last minute accommodation) have appeared. Other reservation solutions (metasearch engines) such as Trivago are also heavily advertising themselves and Airbnb has also entered the market. According to the above facts it appears as though innovative players still have a chance of entering the market, however, it is questionable whether their entry will be sufficient enough to compete in the long run.

36. The benefits derived from APPAs by accommodation providers are questionable. The majority of respondents stated that APPAs are disadvantageous for them, as they could maximise their profits via direct bookings if they could decrease the prices on their own websites. However, they agreed with the fact that online platforms enhanced capacity utilisation. Certain (especially smaller) market players stated that an APPA clause fits their business strategy, as they think that it is a great way to build consumer trust through the unification of prices, because consumers feel that they always will get the best offer.

37. As regards to the benefits obtained by consumers one can emphasise that search costs are lower as in theory they only need to check one website to get the best offer. However, as the search method occurs via the Internet the search costs are already very low.

38. Another benefit can be that OTAs are forced to compete on the quality of their websites, as there is no price competition. Foreign OTAs translated their websites into Hungarian and developed lots of new features. However, it is debateable whether this development occurred as a result of the fact that there is no room to compete on prices, as price competition is only one segment of competition.

39. Hungary experienced only the indirect effect of the so called narrow MFN commitments proposed and later introduced by Booking.com. After the commitments were accepted by three countries the GVH tested them on some market participants. Respondents can be grouped into two categories regarding their opinion. The minority of them said that a narrow MFN will not change anything on the market, as they cannot imagine giving lower prices to OTAs than those displayed on their own websites. The other group welcomed the commitments and outlined the advantage of giving different prices offline (for tour operators as well as end consumers or corporate partners).