

MANDATE

05.06.2019

GLEISS LUTZ WINS APPEAL PROCEEDINGS FOR BOOKING.COM REGARDING BEST PRICE CLAUSES

Gleiss Lutz has successfully represented booking portal Booking.com in appeal proceedings before the 1st Antitrust Division of the Düsseldorf Higher Regional Court: The proceedings involved “narrow” best price clauses, which prevent hotels from offering rates on their own websites that are better than on Booking.com. The Federal Cartel Office (FCO) prohibited Booking.com from using such clauses in December 2015. After a four-year legal battle, Booking.com’s legal view prevailed over that of the FCO when the Düsseldorf Higher Regional Court overturned its prohibition decision.

According to the Court, narrow best price clauses are necessary to ensure a fair and balanced exchange of services between Booking.com and the contractually bound hotels. Booking.com shoulders almost all of the costs upfront. The balanced exchange of services would suffer lasting damage if hotels were able to redirect guests to their own websites by offering lower room rates.

The Court denied leave for appeal on points of law. The FCO can, however, lodge an appeal with the Federal Fiscal Court against the denial of leave to appeal.

The following team of Gleiss Lutz lawyers advised and represented Booking.com BV in the appeal proceedings: Dr. Ingo Brinker (partner, Munich), Dr. Christian Steinle (partner, both lead), Dr. Ines Bodenstein (counsel), Dr. Lukas Aberle, Dr. Juliane Langguth (all competition/antitrust, all Stuttgart).

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