

PRESS RELEASE – for immediate release

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## **GERMAN COURT CONFIRMS THAT NARROW PARITY CLAUSES ARE NECESSARY TO ENSURE A FAIR AND BALANCED EXCHANGE OF SERVICES AND ARE FULLY COMPLIANT WITH EU COMPETITION RULES**

**ETTSA welcomes the decision of the German court as another evidence that narrow most favoured nation (MFNs) clauses are pro competition and are an important tool for companies to defend investments against free-riding and to create efficiencies for consumers. The recently adopted Platforms-to-Business regulation equally confirms the justification and compliance of such clauses with EU law. ETTSA calls on Member States that still apply unjustified restrictions on these clauses to lift them now.**

The Düsseldorf Higher Regional Court decided yesterday (June 4) to cancel a previous decision from the German competition authority, Bundeskartellamt, forbidding Booking.com from applying narrow most favoured nation (MFN) clauses in their contracts with hotels. The ruling concluded without any ambiguity that narrow MFNs do not restrict competition but are in fact necessary to ensure a fair and balanced exchange of services between the portal's operators and hotels.

Narrow MFNs clauses are indeed widely used contract terms in multiple sectors. In the online travel sector, when online travel agents (OTAs) contract with hotels, they only impose light restrictions in order to safeguard online travel agents' free-to-use business model for consumers as well as providing marketing visibility to hotels with no upfront costs. By requiring hotels to list equally competitive prices on the site of the online travel agent they decide to work with as compared to their own website, these provisions help ensure a fair and pro-competitive market as OTAs only receive compensation for their investments from hotels once a booking is completed on the OTA website.

The German decision is supported by another one in Sweden where, last month (May 2019), the Highest Court also ruled in favour of Booking.com in a similar case brought up by hospitality association Visita, which claimed that Booking's narrow parity clauses were a violation of competition law. There the Court did not find evidence that such provisions are actually restricting competition.

ETTSA considers both cases an important step forward in definitely establishing the compliance of such clauses with EU competition rules. It is a strong signal for Austria, Belgium, France and Italy, which, in recent years, have all applied additional MFN restrictions and therefore must urgently amend their national rules to assure compliance with EU law.

*"ETTSA is pleased with the outcome of the decisions in Germany and Sweden preventing further restrictions of narrow MFN clauses. In the online travel sector, such provisions have proved crucial in defending investments against free-riding and to create efficiencies for consumers. That is why in recent years, ETTSA has submitted formal complaints with the European Commission regarding the French, Austrian and Italian decisions to ban narrow parity clauses. As none of them has yet been addressed, ETTSA calls on the Commission to act upon them and for these countries to align urgently with the EU regulatory framework",* said Emmanuel Mounier, Secretary General of ETTSA.

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### **Notes to editors**

The European Technology and Travel Services Association represents and promotes the interests of travel technology companies in Europe, including global distribution systems (GDSs), online travel platforms and metasearch sites. The association, based in Brussels, encourages and supports full transparency, fair competition and consumer choice in the travel distribution chain.

ETTSA's members include Amadeus, Booking.com, Expedia, eDreams Odigeo, Sabre, Travelport. Associate members include SkyScanner, TripAdvisor and American Express GBT. Strategic Partners include Lastminute.com, etraveli, Travix, Travegenio, Hitrail, OAG and Carlson Wagonlit Travel.