Hotrec
Hospitality Europe

Distribution Working Group

AGENDA

1. Welcome by the Chair and adoption of the agenda
2. Discussion on DMA - Google
3. Discussion on DMA – Booking.com
4. ECJ judgment C-264/23 “Booking.com” - Private damages actions by European hotels
5. Tour de table: recent developments with platforms at national level and EU level
6. HOTREC’s annual distribution study
7. *The DMA’s Path Forward – Denis Sparas, Legal & Policy Officer, European Commission, DG CNECT*

Antitrust statement

Members are requested to respect the anti-trust statement:
All HOTREC meetings need to be conducted in accordance with relevant competition and antitrust laws. You are therefore reminded that you will at all times need to be mindful of the constraints of antitrust laws.

There shall be no exchange of sensitive or confidential information or discussion on matters which is likely to affect competition on the market or the commercial strategy or activities of undertakings. You are in the best position to judge what is, and what is not, commercially sensitive or confidential and so responsibility lies with you in the first place.

Discussion at any type of HOTREC meeting will focus on the association's key purpose. You are also reminded not to discuss topics outside the previously circulated and reviewed agenda.
Failure to follow these guidelines may bring with it serious consequences for you as an individual, your companies and the trade association itself. Such consequences include heavy fines and in certain cases, under national laws, the imposition of criminal penalties and sentences.

Distribution

Digital Markets Act - Google Search

State of play

- **Sept. 2023:** Google designated as a gatekeeper
- **7 March 2024:** Google to comply with the DMA
- **19 March 2025**: Google remains non-compliant (Preliminary findings)

Application of Article 6(5) – Ban on self-preferencing

- Article 6(5) bans gatekeepers from favoring their own services in rankings.
- For Google, this targets preferential placement of Google Hotels, Maps, and Flights in search results.

Expected benefits for the hospitality sector

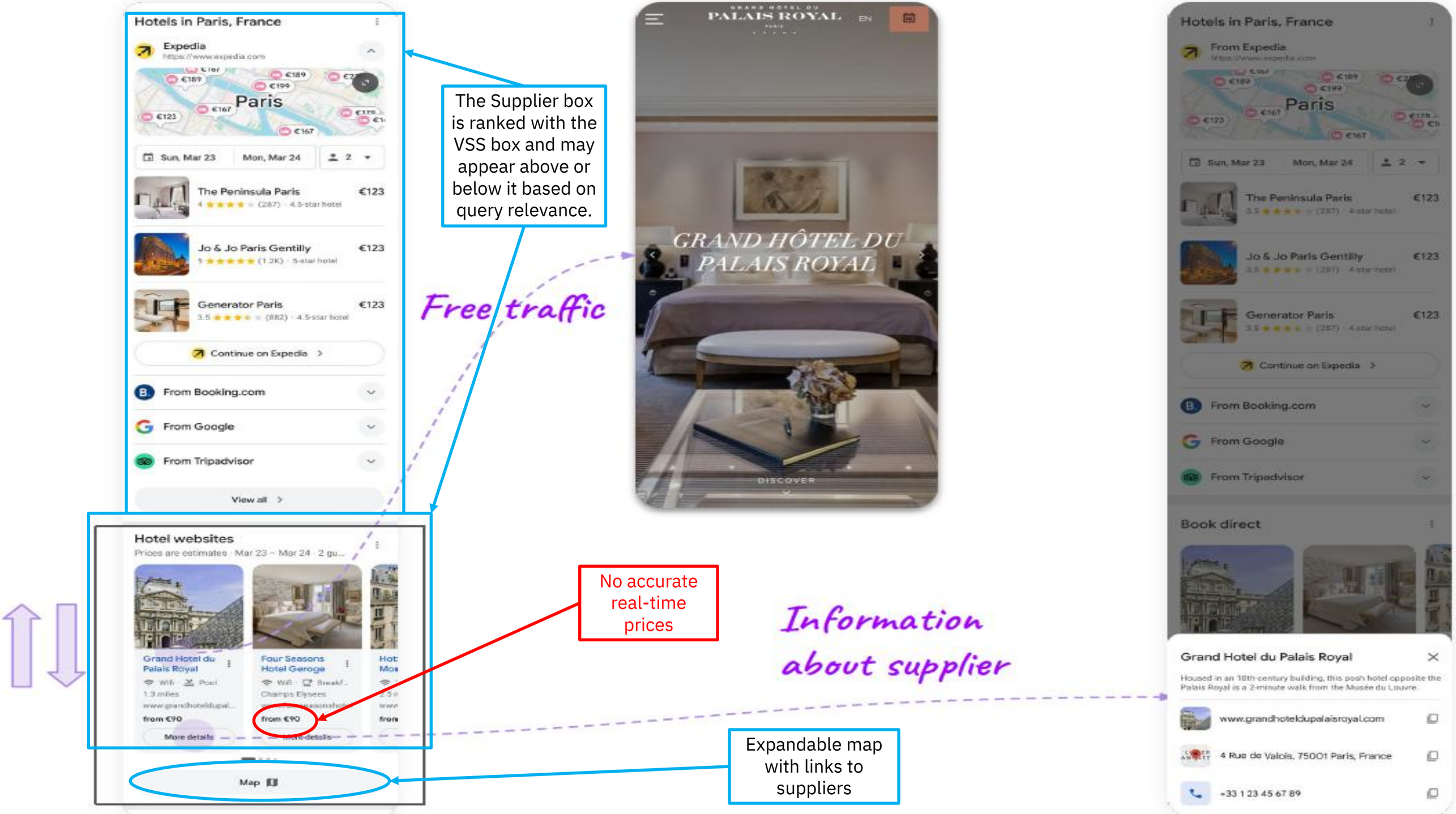
- **Fairer search visibility** for hotel and restaurant websites, not dominated by Google's booking tools.
- **More direct traffic** to business sites, reducing reliance on paid platforms.
- **Greater consumer choice** through diverse and transparent search results.

Distribution

Digital Markets Act - Google Search

Key issues

- Google **continues to self-prefer** its own services (e.g. Google Hotels, Flights, Maps, Shopping) in search results.
- **Interface design and ranking** still give Google verticals **greater visibility** than rival services.
- Google's proposed **"compliance measures"** do **not ensure equal treatment** between hotels and third-party Vertical Search Engines (VSS).
    - Ex. In contrast to VSS, independent hotels not allowed to display accurate, real-time prices


Hotels in Paris, France
Expedia
Paris
Sun, Mar 23
Mon, Mar 24
The Peninsula Paris €123
Jo & Jo Paris Gentilly €123
Generator Paris €123
Continue on Expedia
From Booking.com
From Google
From Tripadvisor
View all
The Supplier box is ranked with the VSS box and may appear above or below it based on query relevance.
Free traffic
GRAND HÔTEL DU PALAIS ROYAL
DISCOVER
Hotel websites
Grand Hotel du Palais Royal
Four Seasons Hotel Geroge
from €90
More details
Map
No accurate real-time prices
Information about supplier
Expandable map with links to suppliers
Hotels in Paris, France
From Expedia
Book direct
Grand Hotel du Palais Royal
www.grandhoteldupalaisroyal.com
4 Rue de Valois, 75001 Paris, France
+33 1 23 45 67 89

Distribution

Implications of Google AI Search on DMA

Context

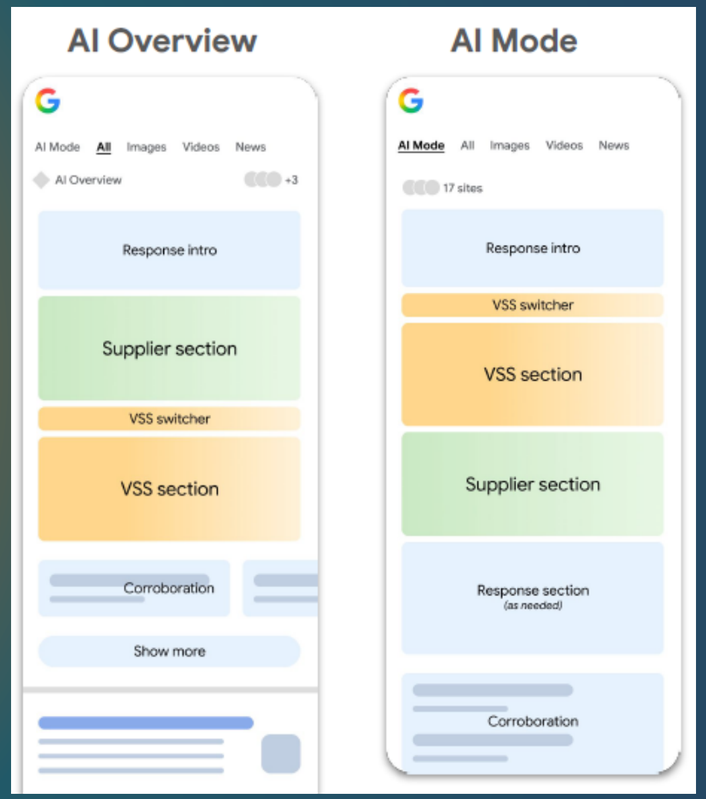
- Google's **AI-powered search (SGE)** changes how users discover places to eat and stay.
- Google's **AI-generated summaries** as the first point of interaction
- Traditional organic search results pushed further down the page

Key impacts under the DMA

- **Self-preferencing risks:** AI may favour Google's own services (hotels, maps, reviews).
- **Traffic decline:** Fewer direct clicks → stronger dependence on Google

What's next?

- European Commission to assess the integration of AI in the services covered by the DMA



Distribution

Digital Markets Act - Google Search

What has HOTREC done since last GA?

- **July 2025** – Participation in the Commission's Google DMA compliance workshop
- **9 Sept. 2025** – Meeting with the Commission's DMA Task Force on Google's proposals for compliance
- **24 Sept. 2025** – Response to the consultation on the DMA review

What's next?

- **25 Nov. 2025**: Joint direct supplier meeting with Commission's DMA Task Force
- **2026:** Commission to accept new compliance solution or impose fines or binding remedies if non-compliance is confirmed

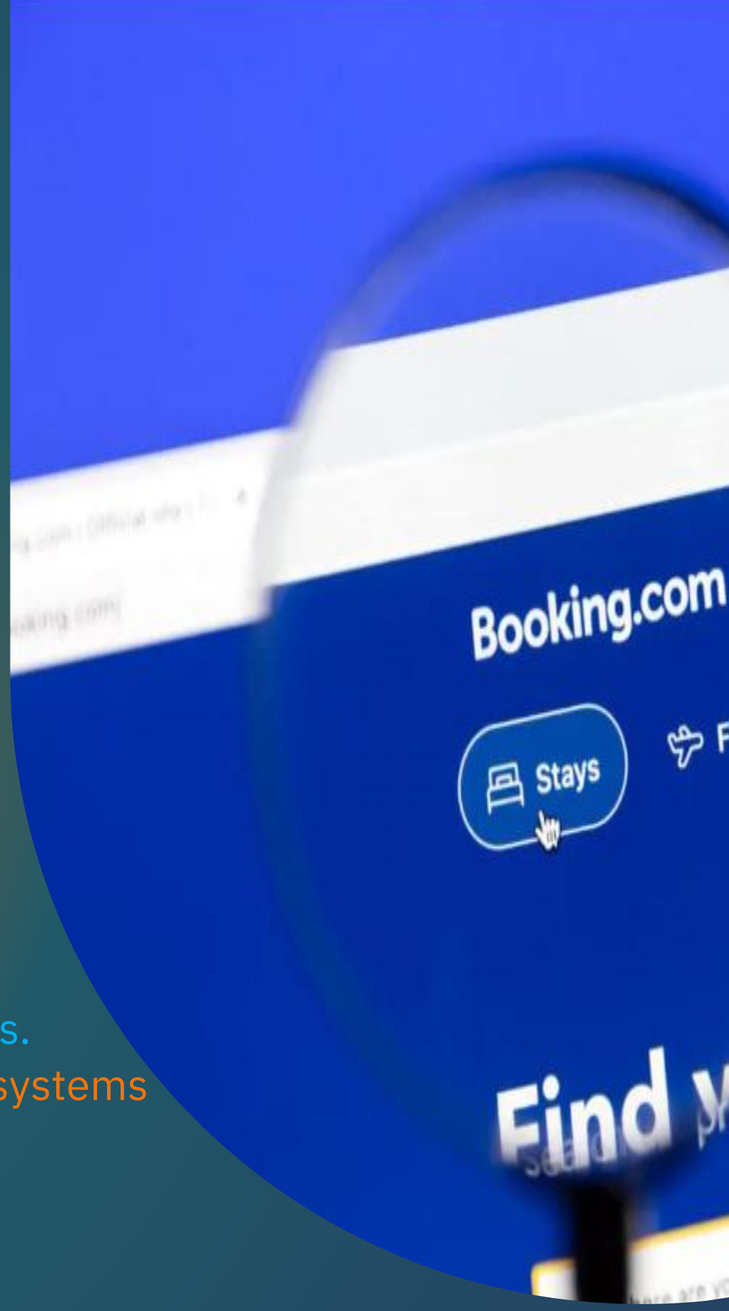
Distribution

Digital Markets Act - Google Search

- **13 Nov. 2025:** European Commission opens opens DMA non-compliance investigation into Google
- **Concern:** Google's site-reputation/anti-spam policy allegedly demotes publishers' commercial/partner content.
- **Infringement:** Potential breach of DMA FRAND & ranking transparency obligations – Articles 6(12) & 6(5)
- **Possible outcomes:** behavioural remedies, fines up to 10–20% of global turnover.
- **Implications:** Potentially forced changes to Google Search treatment of publisher commercial content.
- **Timeline:** Investigation to be concluded within 12 months

Distribution

Digital Markets Act - Booking.com



Background

- **May 2024:** Booking.com designated as a gatekeeper
- **November 2024:** Booking.com to comply with the DMA

Key DMA obligations applied

- **Article 5(3) – No parity clauses:**
  - Hotels can **offer lower prices or better conditions** on their own websites or other platforms.
  - **Expected benefit:** More pricing freedom and direct bookings.
  - **What we see:** Application of measures that indirectly nudge hotels towards maintaining price parity
- **Article 5(7) – No bundling of payment services:**
  - Booking.com cannot **force use of its own payment system**.
  - **Expected benefit:** Lower fees and flexibility to manage **payments directly** with guests.
  - **What we see:** Adoption of strategy restricting hotels from using alternative payment systems
- **Article 6(10) – Access to data:**
  - Hotels gain **access to consumers' data** generated through the platform.
  - **Expected benefit:** Improved business insights, marketing, and customer relations.
  - **What we see:** Important guest data continuously withheld

Distribution

Digital Markets Act - Booking.com

HOTREC ACTIONS

I. HOTREC's paper on Booking.com's Non-Compliance with DMA (Art.5(7) & 6(10))

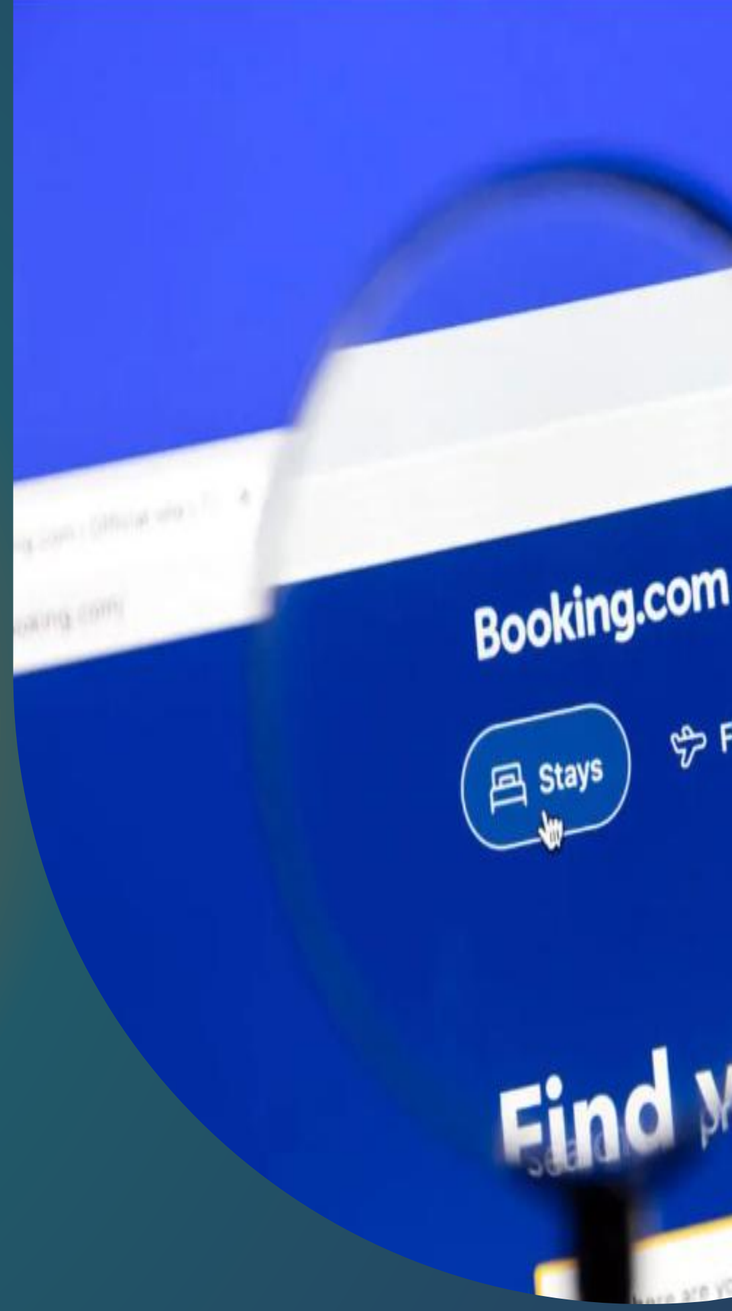
Data Access (Art. 6(10))
- Hotels lack full guest data (emails, phone, IP, payment info).
- No tools for custom data requests; consent controlled by Booking.com.

Payment Restrictions (Art. 5(7))
- Hotels blocked from using own payment systems (3D Secure links).
- Planned removal of prepayment options forces Booking.com's payment solution.

Impact
- Creates dependency, limits competition, and hinders GDPR/DMA compliance.

Fix
- Free choice of payment systems.
- Full, real-time access to guest & transaction data.

Next steps
- Presentation of the paper to the DMA Task Force



Distribution

Digital Markets Act - Booking.com

HOTREC ACTIONS

II. Draft parliamentary questions to key MEPs

a) Contestability

How does the Commission assess OTA contestability since Booking's DMA designation? Has the DMA had pro-competitive impact? If not, why and what measures?

b) Monitoring

Is the Commission tracking practices with effects similar to banned DMA obligations (e.g., indirect parity, self-preferencing incentives, data asymmetries)?

c) DMA Effectiveness

How will the Commission keep the DMA credible and effective in entrenched markets and amid AI risks to fairness and contestability?

III. Joint HOTREC – EHF Study on Disparity Test

Study Objective

Assess if hotels are penalized (e.g., lower ranking, reduced visibility, exclusion from programs) when offering better prices or conditions on:

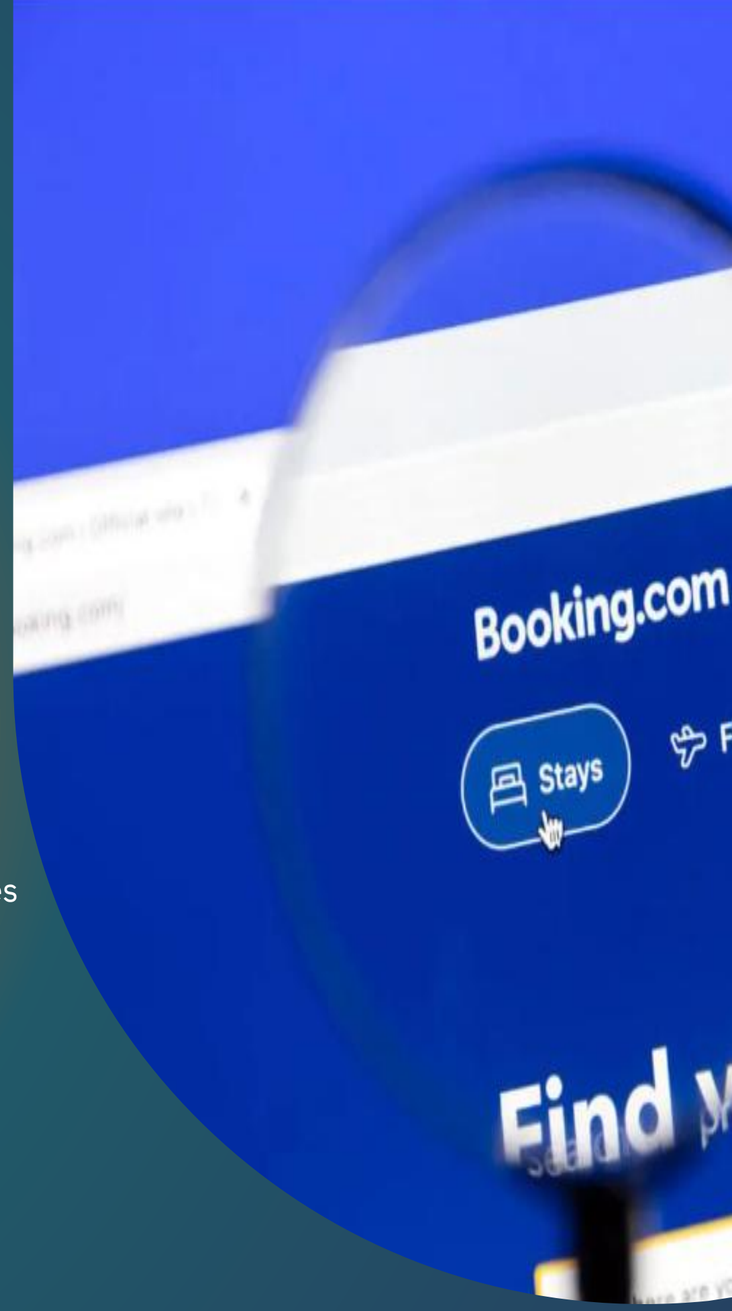
- Direct channels (own website)
- Competing OTAs / metasearch platforms

Methodology

- Systematic variation of **price, availability, conditions** across selected hotels
- **Automated data collection** via proprietary web scraping on **Booking, Google, Expedia**

Timeline:

- **Starting date**: TBC
- **Duration**: 14 weeks approximately



Distribution

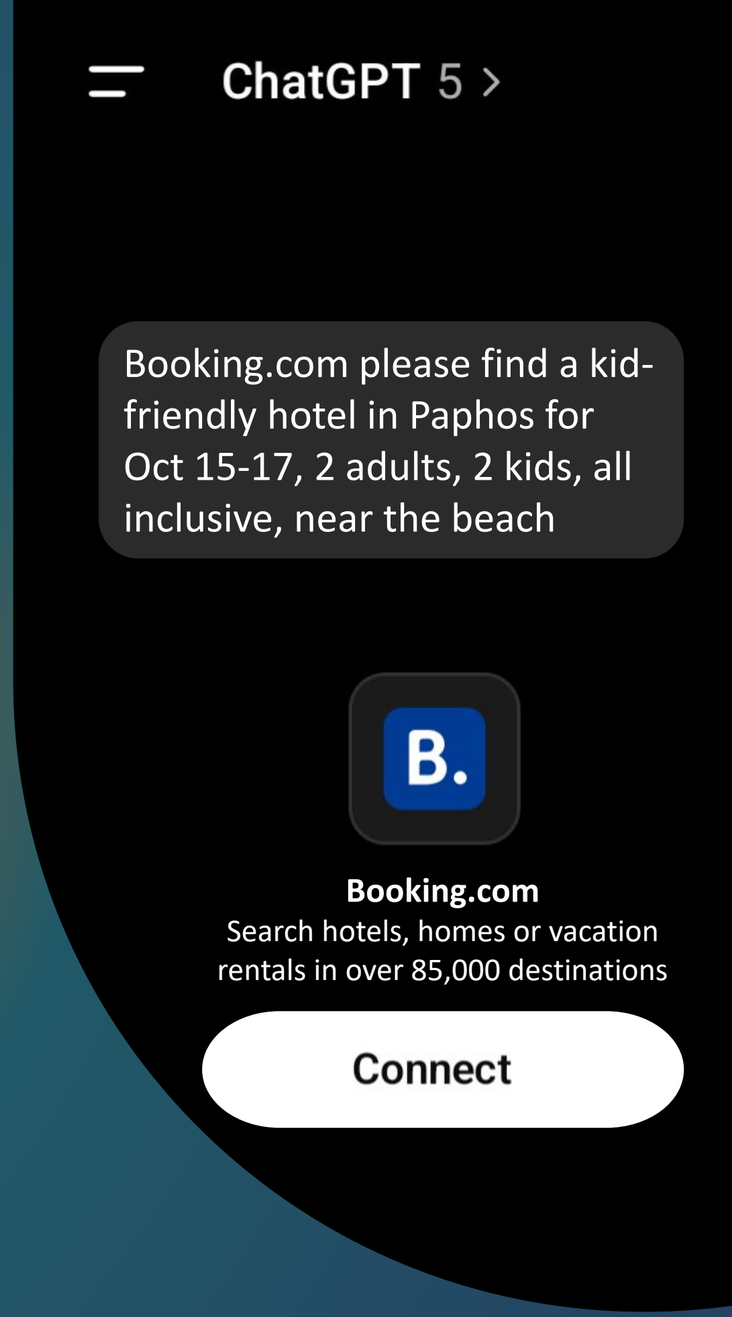
Digital Markets Act - Booking.com & AI

Context

- Companies like **Booking.com or Expedia** plugged directly into ChatGPT.
- Travelers can chat with embedded apps like Booking.com to **plan and book trips conversationally** within a single AI interface.

Key impacts under the DMA

- **Consolidation pressure:** Booking.com may **capture more reservations**, limiting hotels visibility.
- **Unanswered question**: (How) can the DMA capture these features that risk entrenching Booking.com's dominant position?



Distribution

Booking.com Sponsored Benefit (BSB) & Invoicing

Current Practice: Booking.com requires hoteliers to issue invoices directly to customers, regardless of payment method.

Accounting Concern:

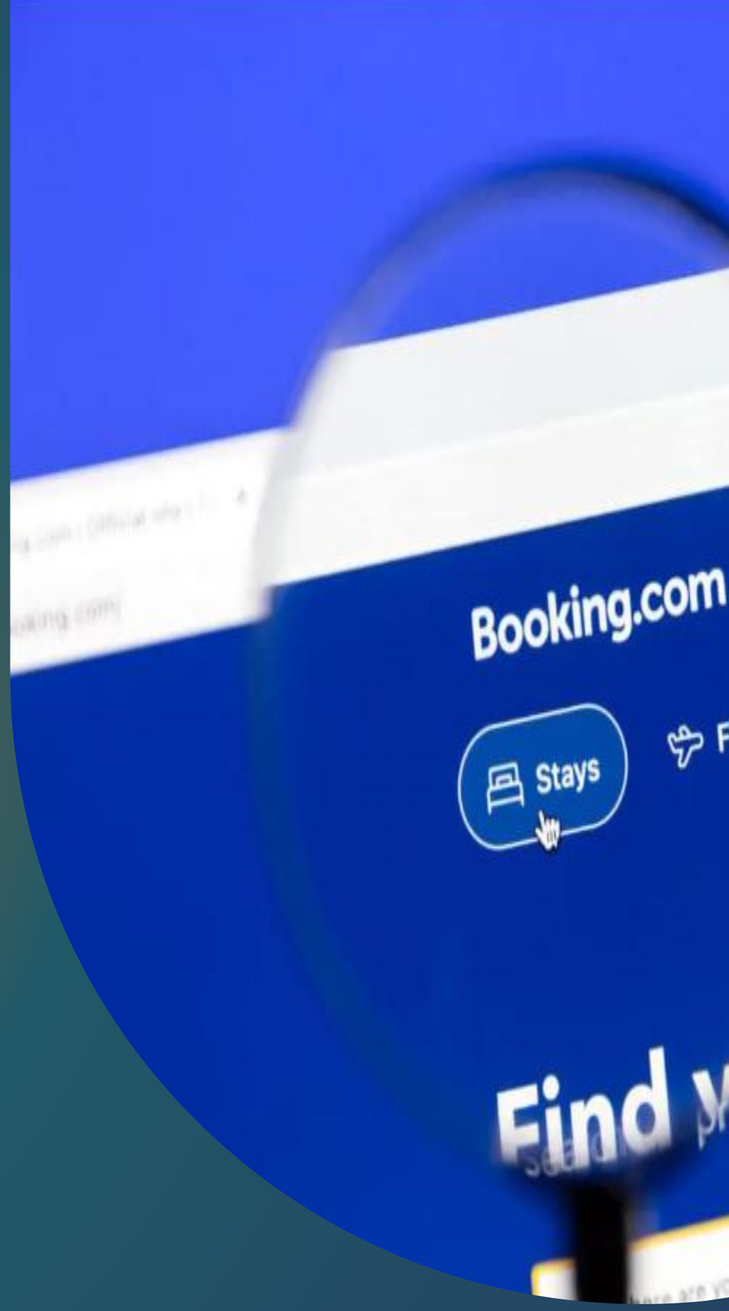
- If payment is made via Booking, the actual payer is **Booking**, not the customer.
- Correct practice: Invoice should be issued to Booking (similar to Expedia).

Tax Implication:

- Platforms should provide tax invoices to customers, not hoteliers.

Problem in BSB Framework:

- Hoteliers in the dark about the exact amount paid by the client due to opaque commission (0–8%).
- Result: Invoice often exceeds actual payment → **fiscally inaccurate for corporate clients**.



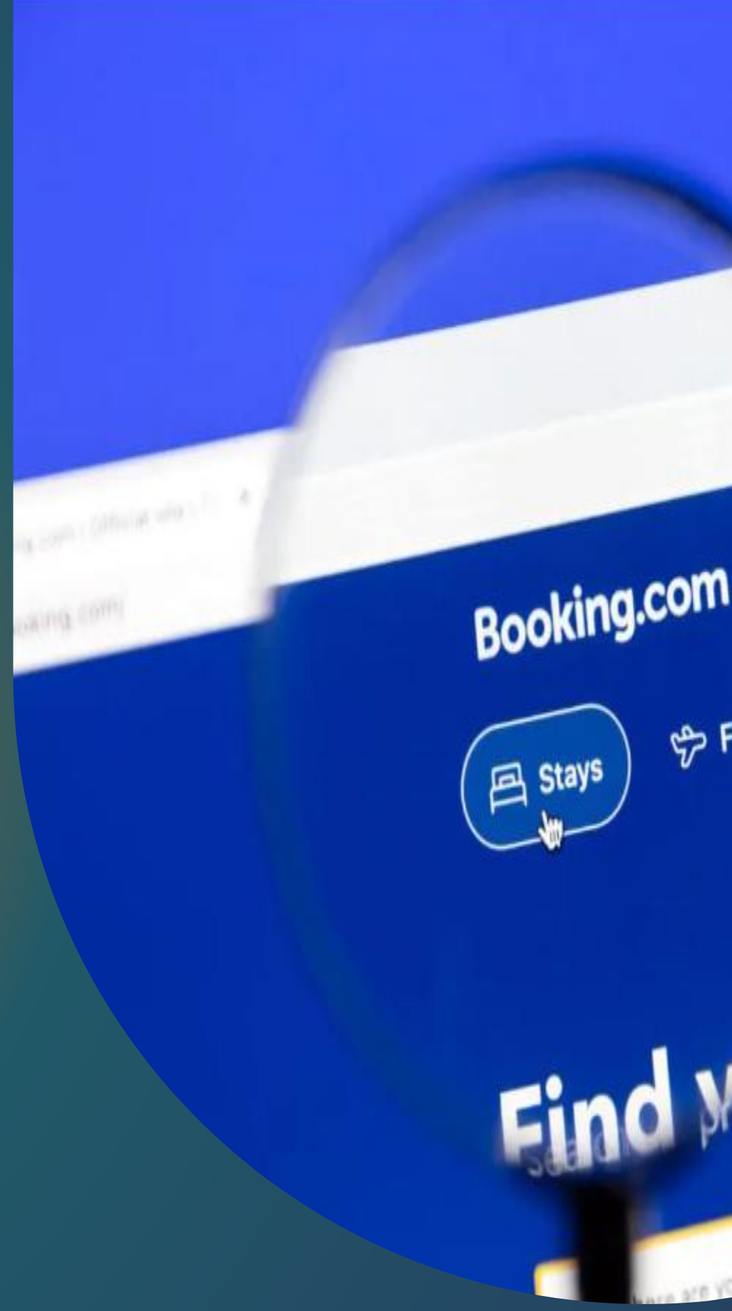
Distribution

ECJ judgment C-264/23 “Booking.com” - Private damages actions by European hotels

Markus Luthe

CEO

German Hotel Association (IHA)



Distribution

Tour de table: recent developments with platforms at national level and EU level

Distribution

The DMA's path forward: review, compliance, and beyond

Denis Sparas
Legal & Policy Officer
European Commission, DG CNECT

Digital Markets Act

Distribution

2025 Distribution Study

Topics covered

- Share of overnight stays by booking channel (phone, email, agency, OTA)
- Key OTA partners for hotels
- Undercutting (OTA waiving commission), multi-sourcing (rates from other OTAs).
- Use of OTAs' online payment services
- AI adoption: Early stage; focus on vision, data readiness, staff training, and ROI evaluation.

Next steps

- **Mid-January 2026**: Survey translation
- **Early Feb. 2026**: Survey launch
- **Feb-April 2026 (TBC)**: Closing & data collection
- **June 2026 (TBC)**: Analysis & reporting

Distribution

AOB

Date of next meetings:

- Q1 2026 (tbc)