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For Immediate Release

### **Competition Commission accepts commitments offered by online travel agents**

The Competition Commission (Commission) today announced the acceptance of voluntary commitments offered under section 60 of the Competition Ordinance (Ordinance) by three major online travel agents (OTAs), namely Booking.com, Expedia (including Hotels.com) and Trip.com (including Ctrip.com).

OTAs operate platforms through which consumers may search for and compare accommodations on the basis of different criteria, including price, and then make the bookings.

The commitments aim to address the Commission's concerns around clauses in contracts between OTAs and accommodation providers in Hong Kong that require accommodation providers to always give the OTA the same or better terms as those they offer in all other sales channels, as regards room prices (wide price parity), room conditions (wide conditions parity) and / or room availability (room availability parity). The acceptance of the commitments would result in the complete removal of these clauses and thus address the Commission's concerns raised in its investigation.

At present, Booking.com's and Expedia's contracts with accommodation providers in Hong Kong contain all three types of clauses, while Trip.com's contracts contain a wide price parity clause only. The Commission considers that these clauses have the potential effect of softening competition among OTAs, as well as hindering entry and expansion by new or smaller OTAs, depriving consumers of the benefits of effective competition. The clauses may thus harm competition, potentially in contravention of the First Conduct Rule of the Ordinance.

The Commission commenced a consultation on the commitments offered by the OTAs on 31 March 2020. Having considered the representations received in the consultation process, the Commission found it necessary to request Booking.com, Expedia and Trip.com to make two modifications to the proposed commitments:

- (i) clarification in each of the commitments as to the OTA brands that are subject to the commitments within each OTA group; and
- (ii) a requirement for each of the OTAs to submit an annual compliance statement stating that each OTA has complied with its obligations in the commitments during the period covered by the statement.

The Commission has accepted the commitments as modified.

Mr Brent Snyder, CEO of the Commission, said, "The Commission's acceptance of the OTAs' voluntary commitments seeks to ensure that there is effective competition across different online travel agent platforms. It is expected that consumers, accommodation providers, potential new market entrants and the Hong Kong tourism industry as a whole may all benefit from it."

“This is the first time the Commission has accepted commitments under section 60 of the Ordinance, marking another significant enforcement milestone for the Commission. This development demonstrates the Commission’s willingness to use the full range of enforcement outcomes in the Ordinance to achieve appropriate and proportionate resolutions to its competition concerns.”

Booking.com and Expedia were cooperative with the Commission’s investigation from an early stage. They addressed the Commission’s competition concerns relating to wide price, conditions and/or room availability parity clauses by offering suitable commitments. Trip.com was also cooperative with the Commission’s investigation and engaged with the Commission to address the competition concerns relating to wide price parity clauses, which appear only in some of its contracts with accommodation providers in Hong Kong, by offering suitable commitments. All three parties acted in a timely and efficient manner in their engagement with the Commission, including during the challenging times of the Covid-19 pandemic.

Each of the OTAs has 90 calendar days to amend their existing and future contracts with Hong Kong accommodation providers as necessary for compliance with the commitments. The commitments will remain in force for a period of 5 years starting on the day on which the relevant contracts are amended by each of the OTAs.

The Commission can withdraw its acceptance of commitments under the conditions provided for in section 61 of the Ordinance, including where there has been a material change of circumstances or the person giving the commitment has failed to comply with it.

Together with the final commitments from each of the three OTAs, the Commission has published a notice of the acceptance to provide further information on the matter, including responses to various issues raised in the representations submitted during the consultation. These documents are available on the Commission’s website at [www.compcomm.hk](http://www.compcomm.hk).

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## **Notes to the Editor**

### **Commitments under section 60 of the Ordinance**

Under section 60(1) of the Ordinance, the Commission may accept a commitment from a person to (a) take any action, or (b) refrain from taking any action, where it considers this appropriate to address its concerns about a possible contravention of a competition rule.

If the Commission accepts commitments, it will terminate its investigation and not bring proceedings in the Competition Tribunal regarding the matters covered by the commitments. This is subject, however, to the ability of the Commission to withdraw its acceptance of commitments under the conditions provided for in section 61 of the Ordinance, including where there has been a material change of circumstances or the person giving the commitment has failed to comply with it.

The Ordinance does not require Parties offering commitments to make any admission of a contravention.