

COMMERCE ACT 1986: BUSINESS ACQUISITION**SECTION 66: NOTICE SEEKING CLEARANCE**

July 18, 2014

The Registrar
Mergers and Authorisations
Commerce Commission
PO Box 2351
WELLINGTON

Pursuant to section 66(1) of the Commerce Act 1986, notice is hereby given seeking clearance of a proposed business acquisition.

EXECUTIVE SUMMARY

- 1 Expedia, Inc. (**Expedia**) seeks clearance to acquire, through a wholly-owned subsidiary, up to 100% of the issued shares of Australian Securities Exchange (**ASX**)-listed Wotif.com Holdings Limited (**Wotif, proposed transaction**). The proposed transaction was announced on 7 July 2014. Expedia was selected as the successful bidder for Wotif following the completion of a confidential and competitive sale process. The proposed transaction will be implemented by way of a scheme of arrangement, with Expedia and Wotif entering into a Scheme Implementation Agreement on 5 July 2014.
- 2 Expedia is a global online travel agency (**OTA**) that offers consumers the ability to book accommodation, flights, vacation packages, car hire and other retail travel products, both online and by telephone. Expedia is also a small supplier of corporate travel management services through its Egencia business.
- 3 Wotif is an ASX-listed and Australia-based OTA that is predominantly active in the supply of online accommodation booking services, which represents approximately 87% of its revenue. It is also active in the provision of booking services for flights, travel packages and other travel products.
- 4 Expedia considers the relevant lens for assessing the proposed transaction is the distribution, booking and retail supply of travel products in New Zealand, which reflects the level of competition across a range of travel product suppliers and different distribution channels.¹
- 5 However, on any basis, the proposed transaction would not be likely to have the effect of substantially lessening competition in any market in contravention of section 47 of the Commerce Act 1986.

¹ This market definition is consistent with the Australian Competition and Consumer Commission's (**ACCC**) Public Competition Assessment of Jetset Travelworld Limited's proposed acquisition of Stella Travel Services Holdings Pty Ltd, dated 28 September 2010 (available at <http://registers.accc.gov.au/content/index.phtml/itemId/944451>). It is also consistent with the approach taken by the ACCC in the Flight Centre case.

- 6 The proposed transaction would not lessen competition in any market for the distribution, booking and retail supply of travel products for the following reasons:
- 6.1 **No material aggregation** - The proposed transaction will not result in any material aggregation or increase in market concentration. Even on an intermediary-only basis, Expedia's share of bookings with New Zealand consumers will increase by only []%, from []% to []%.² Since the actual market includes direct supply by travel content owners, including such supply in the market size figures would likely very materially reduce this share.
- 6.2 **Significant competitive choice** - Following the proposed transaction, Expedia will continue to be constrained by, and both consumers and travel content owners will continue to be able to choose from, services offered by a large number of competitors. Those competitors include:
- (a) a wide range of "bricks-and-mortar" travel agents, including Flight Centre, House of Travel and Helloworld's United Travel and Harvey World Travel (along with a large number of smaller bricks-and-mortar travel agents), many of which also have established and expanding presences in online distribution, that is, they operate a "mixed model";
 - (b) a number of international and domestic OTAs, principally Priceline Group (which owns Booking.com and Agoda among its family of brands), Webjet and Orbitz Worldwide (HotelClub.com); and
 - (c) direct booking channels (including sales online by airlines, accommodation owners and other travel content owners) which are facilitated by the growth of metasearch sites, channel managers and software solutions providers.
- 7 Focusing solely on accommodation as the individual travel product in the retail market for which there is the greatest overlap between the parties' activities, the parties' combined share of supply in New Zealand is only []%, which represents an increase of []% to Expedia's existing share of []%.³ [

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- 8 Expedia considers that there is no separate economic market for the online supply of accommodation. Accommodation represents only travel product in the retail travel market, and online bookings represent only one distribution channel for accommodation. OTAs compete vigorously with a wide range of bricks-and-mortar

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(Source: Euromonitor International, *Travel Retail in New Zealand*, September 2013)]

³ [

(Source: Euromonitor International, *Travel Accommodation in New Zealand*, September 2013)]

travel agents, mixed model travel agents and direct supply by accommodation owners.

- 9 However, even focusing on the supply of accommodation through the online distribution channel, the proposed transaction would not raise any competition concerns for the following reasons:

9.1 **Significant competitive constraints** - Following the proposed transaction, both consumers and travel content owners will continue to be able to choose from services offered by a large number of competitors, including:

- (a) other OTAs, including, among others, Priceline Group (Booking.com and Agoda.com); Webjet – an Australia-based OTA that, although historically focused primarily on flight sales, is expanding by marketing online accommodation products to its large existing customer base; and Orbitz Worldwide – an OTA with a New Zealand presence in online accommodation bookings through its growing HotelClub.com brand;
- (b) a number of mixed model travel agents with trusted brands that possess both strong bricks-and-mortar networks and growing online presences, including Flight Centre, Helloworld and House of Travel. Euromonitor estimates that online sales accounted for [] of Flight Centre’s total gross bookings from consumers located in New Zealand in 2012, or []⁴ and
- (c) accommodation owners (and airlines) that market directly to consumers via their own online offerings or through third party intermediaries, such as metasearch sites. Virtually all domestic and international airlines, and a large number of accommodation owners, have strong and effective direct online sales offerings. For example, almost every hotel property listed on Wotif has its own direct bookings website offering the same accommodation opportunity.

9.2 This significant level of competition in relation to the online supply of accommodation (and other travel products) is further facilitated by the dynamic nature of the online distribution channel and the following industry developments:

- (a) the presence of fast-growing software solutions providers such as SiteMinder (also a channel manager), Travelclick and Hotelliant, which offer products that enable accommodation owners to easily create their own direct website with booking functionality, in a cost-effective manner;
- (b) the growth of metasearch sites such as TripAdvisor, HotelsCombined, Kayak⁵ and trivago,⁶ which, similar to OTAs, increase price transparency and lower searching costs for consumers by giving them the ability to browse many providers at once, while simultaneously allowing accommodation owners, including via their own booking sites, to reach large numbers of consumers; and

⁴ Euromonitor International, *Travel Retail in New Zealand*, September 2013, page 8.

⁵ Kayak was acquired by Priceline Group in 2012.

⁶ Expedia owns a controlling stake in trivago.

- (c) the presence of channel managers such as SiteMinder, which provide a cost-efficient means for accommodation owners to implement a “virtual front desk” for their online presence, automatically updating room availability and rates on multiple OTAs through a single interface. This enables accommodation owners to easily manage a large number of OTA relationships and to easily advertise on metasearch sites.⁷
- 9.3 Consumers looking for accommodation on average visit 12 travel sites before booking online.⁸ OTAs, the sites of mixed model travel agents, accommodation owners’ own sites, metasearch sites and other channels are all actively searched. In particular, the increasing popularity of metasearch sites (which offer side-by-side price comparisons), similarly to OTAs provides a high degree of price transparency to consumers and decreases consumers’ search costs, further contributing to the competitive constraint on OTAs.
- 9.4 **Limited aggregation and no pricing power** – Based on what it considers to be the most reliable third party source data available,⁹ Expedia estimates that its current share of supply of online accommodation is approximately []%. Wotif’s share on the same basis would be []%, giving a combined share of []%.¹⁰ Expedia does not have definitive data on the size of its competitors, but in any event, the combined share does not reflect the significant competitive constraints set out above.
- 9.5 **Low barriers to entry and expansion** - The online supply of accommodation is characterised by low barriers to entry and expansion (as is the case for the supply of other travel products). This is evidenced by:
- (a) the significant recent entry and expansion into online supply by bricks-and-mortar travel agents, which is expected to continue;
- (b) the significant expansion over the past few years of the activities of certain OTAs in New Zealand, particularly Priceline Group’s Booking.com and Agoda brands, Webjet and Orbitz Worldwide. Euromonitor estimates Booking.com to have grown its share of all travel products from []% to []%, on an intermediary-only basis, between 2010 and 2012.¹¹
- (c) the growth of channel managers which allows accommodation owners to easily manage relationships with numerous OTAs;
- (d) increasing levels of direct supply by accommodation owners, facilitated by software solutions providers that offer them the opportunity to

⁷ Prior to the development of channel managers, it was necessary for accommodation owners to load rates and availability individually for each OTA with which they had a relationship.

⁸ http://www.millwardbrown.com/docs/default-source/insight-documents/articles-and-reports/Millward-Brown-Digital_Navigating_the_New_Path_to_Purchase.pdf_at_page_13. This market research is based on US consumers, but Expedia considers that behaviour would be similar amongst New Zealand consumers.

⁹ For additional information on this source, see below at paragraph 45.

¹⁰ []

(Source: Euromonitor International, *Travel Accommodation in New Zealand*, September 2013)]

¹¹ Euromonitor International, *Travel Retail in New Zealand*, September 2013, page 8.

create their own booking sites, which can then be marketed to consumers via metasearch sites and other marketing channels (such as Google), with the assistance of channel managers; and

- (e) the growth of alternative accommodation booking site Airbnb and holiday rental booking sites such as Holiday Houses (owned by Trade Me), BookaBach and BachCare, which represent an additional competitive constraint with an online focus.

PART 1: APPLICANT AND OTHER PARTY DETAILS**Applicant for clearance**

- 1 This notice seeking clearance is given by Expedia, Inc. (**Expedia**).

Postal address: 333 108th Ave NE, Bellevue 98004, Washington, United States of America

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Telephone: +1 425 679 7200

Website: www.expediainc.com

Contact person: Robert J. Dzielak

General Counsel

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Relevant related entities: None

- 2 All correspondence and notices in respect of this application should be directed in the first instance to:

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Other party to the acquisition

- 3 The other party is Wotif.com Holdings Limited (**Wotif**).

Postal address: 7 Baroona Road, Milton, Queensland, 4064, Australia

Physical address: 7 Baroona Road, Milton, Queensland, 4064 , Australia

Telephone: +61 7 3512 9983

Website: www.wotifgroup.com

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General Counsel

- 4 All correspondence and notices in respect of this application should be directed in the first instance to:

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PART 2: TRANSACTION DETAILS**The proposed transaction**

- 5 The proposed transaction was announced on 7 July 2014 and will be implemented by way of a scheme of arrangement, with Expedia and Wotif entering into a Scheme Implementation Agreement on 5 July 2014. The second Australian court date for the scheme of arrangement is anticipated to be in late September 2014 and Expedia's bid to acquire Wotif will need to be unconditional by that date.
- 6 Implementation of the scheme of arrangement is subject to Expedia receiving clearances from the Commerce Commission (**Commission**), the Australian Competition and Consumer Commission (**ACCC**) and the Australian Foreign Investment Review Board (**FIRB**).
- 7 Expedia was selected as the successful bidder for Wotif following the completion of a confidential and competitive sale process.
- 8 At the time of entering into the Scheme Implementation Agreement (copy attached at **Appendix A**) Expedia also acquired an option to acquire up to 19.9% of the issued shares in Wotif. This option is intended to provide greater transaction certainty for Expedia and is only exercisable in circumstances where:
- 8.1 a subsequent competing bid is made by a third party; and
- 8.2 Expedia agrees to match or better the competing bid.
- 9 Exercise of the option is not subject to a requirement for Commission, or ACCC, approval (although it is subject to receipt of FIRB approval if Expedia acquires an interest of more than 14.9%). This is because exercise of the option would not provide Expedia with any control over Wotif. Exercise of the option would not confer on Expedia any right to appoint directors to the board of Wotif or to determine, influence or veto any business decisions by Wotif. It would also not entitle Expedia to obtain any information about Wotif beyond that which is readily available to all shareholders of the publicly listed company.

Commercial rationale

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Other competition agencies being notified of the proposed acquisition

- 11 The ACCC was notified of the proposed transaction on 11 July 2014.

Overview of parties to the acquisition

Expedia

- 12 Expedia is a global OTA that offers consumers the ability to book accommodation, flights, vacation packages, car hire, cruises and destination services and activities.
- 13 Expedia's global portfolio of brands includes:
- 13.1 Expedia.com, a full service OTA with localised sites in 31 countries;
 - 13.2 Hotels.com, an accommodation specialist with sites in more than 60 countries;
 - 13.3 Hotwire.com, a travel discount company with sites in 12 countries throughout North America, Europe and Asia;
 - 13.4 Egencia, a corporate travel management company;
 - 13.5 eLong, Inc., an online travel company in China;
 - 13.6 Venere.com, an online accommodation reservation specialist primarily focusing on consumers in Europe;
 - 13.7 trivago, an online accommodation metasearch company with sites in 45 countries.
 - 13.8 Expedia Local Expert, a provider of online and in-market concierge services, activities and experiences across a wide range of destinations worldwide;
 - 13.9 Classic Vacations, a luxury travel specialist;
 - 13.10 Expedia CruiseShipCenters, a North American retail cruise vacation expert; and
 - 13.11 CarRentals.com, an online car rental booking company.
- 14 In New Zealand, Expedia provides online booking services in relation to accommodation, flights, packages, cruises, car hire and other deals primarily through its expedia.co.nz and Hotels.com brands.
- 15 In 2013, Expedia generated gross bookings of [] and revenue of [] from travel products booked by customers located in New Zealand.
- 16 Further information about Expedia is available at www.expediainc.com.

Wotif

- 17 Wotif is an ASX-listed and Australia-based OTA that is predominantly active in the supply of online accommodation booking services, which represents approximately 87% of its revenue. It is also active in the provision of booking services for flights, travel packages and other travel products.
- 18 Wotif is headquartered in Australia, but also offers its services and has an office in New Zealand (as well as offices in the United Kingdom, Thailand, China, Indonesia, Hong Kong, Malaysia, Singapore and Vietnam). Approximately [] of Wotif's

approximately [] employees are employed in Australia. Wotif's New Zealand office has [] staff.

- 19 Main brands operated by Wotif include wotif.com, lastminute.com.au, travel.com.au, Asia Web Direct, LateStays.com, Go Do and Arnold Travel Technology (a corporate travel management service), along with a network of other travel content and destination websites.
- 20 In 2013, Wotif generated gross bookings of [] and revenue of [] from travel products booked by customers located in New Zealand.
- 21 Further details about Wotif are available at www.wotifgroup.com.

Overlapping services offered by the parties

- 22 Expedia and Wotif's activities overlap in New Zealand in the retail supply of travel product booking services (i.e., the supply of travel product booking services to consumers). For the avoidance of doubt, neither party takes title in any travel products or engages in a sale and re-sale of travel products. Instead, the parties act merely as intermediaries between consumers and suppliers of travel products. References to retail and retail supply in this document must be understood in this context as referring to the supply of travel booking services to end consumers.
- 23 Expedia and Wotif also both have a small presence in the supply of corporate travel management services. However, given their small presence in the market for those services, and the very significant competition from other suppliers such as Carlson Wagonlit, American Express, Corporate Travel Management and others, corporate travel management services are not addressed any further in this notice.
- 24 Expedia and Wotif are both focused on the online (as opposed to bricks-and-mortar, or mixed model) distribution channel. The parties [] supply of accommodation, although both are also active in the supply of flight and package bookings and other travel products (such as car rental bookings).
- 25 Information regarding the parties' competitors, relevant industry associations and accommodation customers is set out at Appendix B.

PART 3: COMPETITION ANALYSIS

Market definition

- 26 Expedia considers the most appropriate definition of the market relevant to the proposed transaction to be the distribution, booking and retail supply of travel products in New Zealand.¹² That is, the market would include:
- 26.1 consumer-facing supply from traditional bricks-and-mortar travel agents, OTAs and directly from travel content owners; and
- 26.2 supply of all travel products (accommodation, flights, travel packages and other travel products).

Product dimension

Competition takes place across distribution channels

- 27 The parties consider that no distinction should be drawn between the channels through which customers book travel products, whether online (from an OTA, from the online presence of a bricks-and-mortar travel agent, or directly from a travel content owner), or from a bricks-and-mortar travel agent.
- 28 Consumers commonly compare prices across channels, and online channels and bricks-and-mortar travel agents exercise significant competitive constraint on each other. For instance, consumers looking for accommodation on average visit 12 travel sites before booking online,¹³ which does not take account of any additional interaction with bricks-and-mortar travel agents.
- 29 On the supply side, bricks-and-mortar travel agents are continuing to blur the line between these two distribution channels, through their increased activity online both through online bookings and by converting website traffic into telephone sales as part of their mixed model strategies. In addition, both bricks-and-mortar travel agents and OTAs typically offer travel booking services via telephone, further highlighting the links between these two closely related distribution channels.
- 30 A market definition comprising both online and bricks-and-mortar distribution channels is supported by the fact that online transactions comprised only []% of total travel retail sales in New Zealand in 2012 (by value),¹⁴ and that predominantly bricks-and-mortar travel agents such as Flight Centre, House of Travel and Helloworld continue to account for the largest share of distribution.¹⁵

¹² This view is consistent with the definition adopted by the ACCC in its Public Competition Assessment of Jetset Travelworld Limited's proposed acquisition of Stella Travel Services Holdings Pty Ltd, dated 28 September 2010 (available at <http://registers.accc.gov.au/content/index.phtml/itemId/944451>). It is also consistent with the approach taken by the ACCC in the Flight Centre case.

¹³ <http://www.millwardbrown.com/docs/default-source/insight-documents/articles-and-reports/Millward-Brown-Digital-Navigating-the-New-Path-to-Purchase.pdf> at page 13. This market research is based on US consumers, but Expedia considers that behaviour would be similar amongst New Zealand consumers.

¹⁴ Euromonitor International, *Travel Retail in New Zealand*, September 2013, page 2. [

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¹⁵ The ACCC recognised the strong degree of competition between bricks-and-mortar and online and direct distribution in Australia at paragraph 43 of its Public Competition Assessment of Jetset Travelworld Limited's proposed acquisition of Stella Travel Services Holdings Pty Ltd.

- 31 The market also comprises direct supply by a range of travel content owners. Direct supply by such travel content owners to consumers is a very significant constraint on bricks-and-mortar travel agents, mixed model travel agents and OTAs. For example, almost every hotel property listed on Wotif has its own direct bookings website offering the same accommodation opportunity.

Competition is for all travel products

- 32 Travel products, such as flights, accommodation, cruises and package holidays should be considered part of the same market for analytical purposes.
- 33 First, customers can and do switch between package and individual component bookings. And in any event, the line between these is increasingly blurred, with the continued growth of “dynamic package” (a combination of travel and accommodation elements that can be put together flexibly by the travel agent or consumer at the time of booking).
- 34 Second, although individual components are not substitutable from a demand perspective (e.g., accommodation is not substitutable for flights), there is a very high degree of supply-side substitutability. While certain suppliers of retail travel products may be relatively more focused on particular travel products (measured by the proportionate split of their revenue), most offer a range of travel products and travel agents can and do expand from offering one product type, such as flights or rental cars, into another, such as accommodation.

Competition takes place in a national market

- 35 Competition for the retail supply of travel products takes place on a national basis and there are no relevant regional distinctions on the supply or demand side. In particular:
- 35.1 customers engage in person with local bricks-and-mortar travel agents, but are able to substitute these by telephone with bricks-and-mortar travel agents situated anywhere in the world, as well as online or by telephone with OTAs and mixed model travel agents; and
- 35.2 main bricks-and-mortar travel agents have branches situated throughout New Zealand (as well as a national online presence) and compete on a national basis.

Counterfactual

- 36 Most aspects of the counterfactual scenario will be the same as for the factual. In particular, the commercial environment in which travel agencies, OTAs and travel content owners operate will continue to be dynamic. Even focusing solely on the online retail supply of accommodation bookings, current market players and low barriers to entry ensure that any provider of services will need to meet market demand by delivering increasing value at a competitive price point. It is expected that new players will continue to emerge, whether by *de novo* entry or by expansion from adjacent market activities.

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Competition analysis

Share of supply

Retail supply of travel products in New Zealand

- 38 The proposed transaction would not give rise to any material aggregation or increase in market concentration in any market for the distribution, booking and retail supply of travel products in New Zealand.
- 39 Even on an intermediary-only basis Expedia's share of bookings with New Zealand consumers would increase by only []%, from []% to []%.¹⁶ Since the actual market includes direct supply by travel content owners, including such supply in the market size figures would likely very materially reduce this share.
- 40 The leading travel agents in New Zealand would continue to be the major bricks-and-mortar travel agents (Flight Centre, House of Travel and Helloworld, including Harvey World Travel and United Travel), which operate bricks-and-mortar travel agent networks with an increasing presence in online distribution. The New Zealand offering of other OTAs would also continue to have a significant presence.
- 41 Competitor market shares are difficult to calculate, as gross booking data for competitors for travel sales (excluding gross bookings derived from corporate travel management) is not readily available. However, Euromonitor estimates that Flight Centre derived gross bookings of [] from sales to consumers in New Zealand in 2012,¹⁷ which serve as a good proxy for Flight Centre's non-corporate travel sales because Flight Centre only launched Flight Centre Business Travel in July 2012.¹⁸ By comparison, Expedia's gross bookings in New Zealand in 2012 on the same basis were [].
- 42 Euromonitor provides shares for the retail supply of all travel products by intermediaries (leisure and corporate). These are set out below to give an indication of overall market concentration given that, as mentioned, there is no definitive, publicly available source for competitor shares excluding corporate travel management services. In addition, the shares do not take account of direct supply by travel content owners which Expedia considers would very materially reduce the shares for individual agents. These shares represent the most recent market share estimates prepared by a third party, but Expedia notes that the market is fragmented, dynamic and evolving and therefore that share "snapshots" from 2012 must be interpreted with this context.

¹⁶ See footnote 2.

¹⁷ Euromonitor International, *Travel Retail in New Zealand*, September 2013, page 4. As noted above, this Euromonitor report uses point of sale data which captures gross bookings derived from customers purchasing travel products in New Zealand.

¹⁸ <http://www.flightcentre.co.nz/advertisement/press-releases-2012/flight-centre-business-travel-arrives>

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Source: Euromonitor International from official statistics, trade associations, trade press, company research, trade interviews, trade sources (*Travel Retail in New Zealand, September 2013, page 8*).

Retail supply of accommodation in New Zealand

43 Focusing solely on accommodation, being the individual product in the retail travel market for which there is the greatest overlap between the parties' activities, the parties' combined share of supply in New Zealand is only []%, representing an increase of []% to Expedia's existing share of []%.¹⁹ [

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Retail supply of accommodation through the online distribution channel

44 As noted above, Expedia does not consider there is a separate market for the online supply of accommodation or other travel products to consumers, nor a distinction between sales made through online and bricks-and-mortar distribution channels. OTAs compete vigorously with, and face significant competitive constraints from, the supply of these services through all channels, including bricks-and-mortar travel agents, mixed model travel agents and direct supply from travel content owners.

45 However, as a snapshot of shares in this channel, Expedia estimates that its current share of supply of online accommodation is []%, while Wotif's share on the same basis would be []%,²⁰ giving a combined share of []%.²¹ [

¹⁹ See footnote 3.
²⁰ See footnote 10.
²¹ []

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46 Expedia does not have definitive data on the sizes of its competitors, but in any event the combined share does not reflect the significant competitive constraints represented by:

46.1 other existing competitors across a range of channels; and

46.2 likely online entry and expansion by bricks-and-mortar travel agents, other OTAs, mixed model travel agents, and direct supply by accommodation owners (facilitated by the growth of metasearch sites, channel managers and software solutions providers).

47 The following analysis demonstrates that, even considered on the narrowest basis, the proposed transaction would not result in a substantial lessening of competition.

Existing competitors

48 There is a large number of competitors that will constrain the prices charged by Expedia to consumers (e.g. by way of service fees) in New Zealand, and provide alternatives to accommodation owners for the distribution of their products.

Bricks-and-mortar and mixed model travel agents

49 House of Travel

49.1 House of Travel is a private New Zealand owned and operated travel agent, which operates a mixed model travel agency (Euromonitor estimates that House of Travel's online sales represented [] of its gross bookings from consumers located in New Zealand, or [], in 2012).²² House of Travel participates directly in the sale of online accommodation alongside the other travel products offered on its website. House of Travel is

²² Euromonitor International, *Travel Retail in New Zealand*, September 2013, page 8.

a significant player and according to Euromonitor was only recently overtaken by Flight Centre as the leading travel agent in New Zealand.

50 Flight Centre

50.1 Flight Centre is the leading travel agent in New Zealand. It operates a mixed model travel agency²³ with a significant online presence (Euromonitor estimates that Flight Centre's online sales represented [] of its gross bookings from consumers located in New Zealand, or [], in 2012).²⁴ It has also launched an online accommodation finder, Quickbeds.com, in Australia, which is well placed to expand to New Zealand.

51 Helloworld Limited Group (United Travel and Harvey World Travel)

51.1 Helloworld's brands, United Travel and Harvey World Travel, operate mixed model travel agencies and hold strong market positions. According to Euromonitor, United Travel's and Harvey World Travel's online sales represented [] ([]) and [] ([]), respectively, of total gross bookings from consumers located in New Zealand in 2012.²⁵

OTAs

52 Priceline Group (Booking.com and Agoda)

52.1 The Priceline Group is a global OTA that already has a significant presence in New Zealand. For example, Euromonitor estimates that Booking.com's share of the retail supply of travel products increased from [] in 2010 to [] in 2012 (on an intermediary-only) basis. According to Euromonitor estimates, in 2012 Booking.com earned more revenue from online travel bookings by consumers in New Zealand than any other participant in the retail travel market.²⁶

53 Webjet

53.1 Webjet is an Australia-based OTA with a New Zealand presence, which has historically focused on flights but is actively increasing its presence in online accommodation bookings.

54 Orbitz Worldwide

54.1 Orbitz Worldwide is active in New Zealand, including in relation to online accommodation bookings through its brand HotelClub.com.

Direct sales

55 Travel content owners are significant direct suppliers to consumers via their own online sites and booking tools. For example, virtually all domestic and international airlines, as well as a large number of accommodation owners, have strong, effective and growing direct online sales offerings through their own sites or other booking

²³ Flight Centre describes its business model as a "blended travel agency", offering the best of both the bricks-and-mortar and online distribution channels.

²⁴ Euromonitor International, *Travel Retail in New Zealand*, September 2013, page 8.

²⁵ Euromonitor International, *Travel Retail in New Zealand*, September 2013, page 8.

²⁶ Euromonitor International, *Travel Retail in New Zealand*, September 2013, page 8.

tools. As noted above, almost every hotel property listed on Wotif has its own direct bookings website offering the same accommodation opportunity.

- 56 The ability of travel content owners to supply directly to consumers through their own online offerings enables them to by-pass intermediaries such as OTAs, and establish direct ties with consumers.
- 57 Expedia considers that the competitive constraint represented by travel content owners in the online distribution channel is very significant, and will increase as innovation in this channel (detailed below) continues.
- 58 For example, Mantra Group, which is present in New Zealand through its Mantra, Peppers and Breakfree brands, has spent AUD11 million over the last four years to create an integrated and automated distribution platform. The volume of bookings generated by Mantra Group's internal direct channel has increased from 19% to 22% of gross bookings between financial year 2011 and financial year 2013.²⁷
- 59 In addition, large-scale investment is not required for smaller accommodation chain owners and independent accommodation owners to have an effective direct online supply capability, as illustrated below.

59.1 Software solutions providers:

- (a) Accommodation owners have increasing access to software solutions providers (such as SiteMinder and Travelclick) which provide tools to easily and cost-effectively create direct, consumer-facing websites with booking functionality.

59.2 The growth of metasearch sites:

- (a) Metasearch sites are search engines that aggregate and simultaneously display, side by side, booking options with OTAs, mixed model travel agents and direct supply options. The growth of metasearch sites has given accommodation owners an additional avenue by which to directly target, and contract with, consumers. Accommodation owners that have their own online booking functionality (which, as discussed above, can be developed and/or licensed at a relatively low cost) advertise on metasearch sites (and other online marketing channels such as Google) and bring customers to their own sites at the expense of OTAs and other travel agents.
- (b) For example, HotelsCombined, a metasearch site, is present in online travel in New Zealand. TripAdvisor, another major metasearch site (that also offers travel reviews and discussion forums), provides a New Zealand-focused metasearch channel through Tripadvisor.co.nz.
- (c) TripAdvisor has also developed TripConnect,²⁸ an advertising bidding tool that enables accommodation owners to drive booking traffic directly to their own direct booking sites. TripConnect has been

²⁷ Mantra Group Prospectus, 30 May 2014, page 44.

²⁸ <https://www.tripadvisor.com/TripConnect>

acknowledged by industry press as a way for independent accommodation owners to by-pass OTAs:²⁹

For the first time, independent hotels and bed and breakfasts worldwide can bid directly in auctions to drive traffic from TripAdvisor to their websites. Owners of small properties will be able to drive TripAdvisor users to their own booking engines, sidestepping middlemen like online travel agents (OTAs) and Google Search.

TripConnect operates with a large number of channel managers, including SiteMinder, as partners (see below).

- (d) In addition, traditional “horizontal” search engines such as Google and Bing have also developed their own “vertical” metasearch sites focused on travel retail, including Google Hotel Finder and Bing Travel.

59.3 Channel managers:

- (a) Channel managers (such as SiteMinder) give accommodation owners a “virtual front desk” for their online presence, automatically updating room availability and price on multiple OTAs through a single interface, enabling accommodation owners to easily manage a large number of OTA relationships, and to increase the number of those relationships.
- (b) As stated above, SiteMinder (and a number of other channel managers³⁰) has partnered with TripAdvisor in relation to its TripConnect advertising bidding tool and offers this service as part of its broader service offering to accommodation owners:³¹

Using SiteMinder products, hoteliers can increase bookings and revenue for their property, by driving qualified leads from TripConnect to their own website. This will minimize what a hotel pays on OTA commissions, and will give hoteliers greater control over the results that they see from their online marketing activity.

- (c) In fact, through channel managers, even the smallest accommodation owners (including those that are not part of a chain or network) can establish and maintain an extensive and diverse online presence in a cost effective way.

59.4 Group buying and social networking websites:

- (a) Group buying websites have in recent years emerged as online travel product suppliers, sometimes offering significant discounts (especially

²⁹ http://www.tnooz.com/article/tripadvisor-tripconnect-metasearch-auction-independent-hotels/#utm_source=Tnooz+Mailing+List&utm_medium=email&utm_campaign=e5ca2125fe-RSS_EMAIL_CAMPAIGN&utm_term=0_c691357c44-e5ca2125fe-137257977

³⁰ Additional partners are listed at <http://www.tripadvisor.com/ConnectPartners>

³¹ <http://www.siteminder.com/news/siteminder-named-as-a-premium-partner-for-tripadvisors-new-bidding-tool-tripconnect/>

for last-minute deals), and often work directly with accommodation owners to provide yet another online direct supply offering.³²

- (b) Social networking sites such as Facebook can readily facilitate distribution of travel products with their significant and diversified resources. For example, a simple and cost effective way for accommodation owners to establish an online presence and directly target and contact consumers is through establishing a commercial Facebook page. The rapid development and enhancement of all these options will provide still further and better options for travel content owners to connect directly with consumers online, particularly as the mobile segment of online commerce continues to grow.

Potential competition

Conditions of entry and expansion

60 Developments in the New Zealand market over the last few years demonstrate that barriers to entry and expansion are low, particularly using the OTA model. In particular:

- 60.1 The online offerings of bricks-and-mortar travel agents have expanded and are expected to continue to do so on an increasing basis.
- 60.2 Competition from overseas-based OTAs has intensified (exemplified by the growth of Booking.com), with a number of competitors (such as Ctrip, eDreams, ODIGEO and Cleartrip) targeting, and seeking growth from, New Zealand consumers and/or accommodation owners.
- 60.3 There are increasing levels of direct supply by accommodation owners, facilitated in part by metasearch sites, channel managers and software solutions offering accommodation owners the opportunity to easily (and cost-effectively) create their own booking sites.
- 60.4 The shift toward sales through applications developed for mobile devices has further lowered barriers to entry in relation to information technology costs, as OTAs with a focus on sales via mobile devices (e.g., HotelQuickly) typically require lower investment in information technology than participants such as Expedia and Wotif.

Countervailing power of customers

61 As detailed above, accommodation owners have a wide range of choices for the distribution of their products and an ever-increasing range of options for bypassing the parties' offerings. Consumers similarly have a number of choices even when the online supply of accommodation bookings is considered in isolation, as evidenced by the fact that consumers looking for accommodation on average visit 12 travel sites before booking online.³³

³² Groupon is an example of a group buying website: <http://travel.grouponnz.co.nz/>

³³ http://www.millwardbrown.com/docs/default-source/insight-documents/articles-and-reports/Millward-Brown-Digital_Navigating_the_New_Path_to_Purchase.pdf at page 13. This market research is based on US consumers, but Expedia considers that behaviour would be similar amongst New Zealand consumers.

Other factors*Coordinated effects*

- 62 Expedia considers that the proposed transaction will not increase the likelihood of coordinated conduct in any market, given:
- 62.1 the large number of travel agents across bricks-and-mortar, mixed model and strictly online channels in the market, which continue to put competitive pressure on Expedia and Wotif;
 - 62.2 the rapidly developing and dynamic technological environment; and
 - 62.3 the significant transparency (i.e., on pricing, availability, etc.) available to consumers, including through metasearch sites (and OTAs), and the large number of choices available to both consumers and accommodation owners.
- 63 Expedia considers that neither the market nor the proposed transaction satisfy the conditions under which coordinated conduct may arise.

Conclusion

- 64 Following the proposed transaction, Expedia considers that:
- 64.1 Consumers will continue to have a vast number of effective competitive choices in relation to the booking of accommodation and other travel products, including through traditional bricks-and-mortar travel agents, mixed model travel agents, OTAs and direct supply options. Consumers looking for accommodation on average visit 12 travel sites before booking online.³⁴ OTAs, the sites of mixed model travel agents, accommodation owners' own sites, metasearch sites and other channels are all actively searched. In particular, the increasing popularity of metasearch sites (which offer side-by-side price and availability comparisons) provides a high degree of price transparency to consumers and decreases consumers' search costs, further contributing to the competitive constraint on OTAs.
 - 64.2 Accommodation and other travel content owners will continue to have a large number of choices for distributing their accommodation and other travel products and those choices are likely to expand. The choices include third party bricks-and-mortar and mixed model travel agents, OTAs, and direct supply options. Direct supply is further facilitated by:
 - (a) the low costs associated with accommodation and other travel content owners establishing their own online booking functionality;
 - (b) the increasing prevalence of metasearch sites which provide an online channel for accommodation owners to facilitate direct bookings on their own sites; and
 - (c) the increasing prevalence of channel managers, which enable even the smallest accommodation owners to effectively and efficiently manage their presence and relationships with many different OTAs.

³⁴ http://www.millwardbrown.com/docs/default-source/insight-documents/articles-and-reports/Millward-Brown-Digital_Navigating_the_New_Path_to_Purchase.pdf at page 13. This market research is based on US consumers, but Expedia considers that behaviour would be similar amongst New Zealand consumers.

PART 4: CONFIDENTIALITY

Specific information contained in or attached to the notice

- 65 Confidentiality is requested for all the information contained in this version of the notice.
- 66 A “public version” of this notice will be provided subsequently that will specifically identify all information that is commercially sensitive to the Applicant.
- 67 The parties request that they be notified if a request is made to the Commission for release of the information under the Official Information Act 1982.

DECLARATION

I, ROBERT J. DZIELAK, have prepared, or supervised the preparation, of this notice seeking clearance.

To the best of my knowledge, I confirm that:

- all information specified by the Commission has been supplied;
- if information has not been supplied, reasons have been included as to why the information has not been supplied;
- all information known to me that is relevant to the consideration this notice has been supplied; and
- all information supplied is correct as at the date of this notice.

I undertake to advise the Commission immediately of any material change in circumstances relating to the notice.

I understand that it is an offence under the Commerce Act to attempt to deceive or knowingly mislead the Commission in respect of any matter before the Commission, including in these documents.

I am an officer of the company and am duly authorised to submit this notice.

Name and title of person authorised to sign

ROBERT J. DZIELAK, EVP, GENERAL COUNSEL AND SECRETARY

Sign: 

Date: 18 JULY 2014

APPENDIX A – COPY OF SCHEME IMPLEMENTATION AGREEMENT

APPENDIX B – MARKET PARTICIPANT INFORMATION

Competitors and trade associations

	Name	Contact details
Competitors	[]	[]
	[]	[]
	[]	[]
	[]	[]
	[]	[]
Trade/industry associations	[]	[]

Key customers

	Customer	Contact details	Gross booking value
Expedia	[]	[]	[]
	[]	[]	[]
	[]	[]	[]
	[]	[]	[]
	[]	[]	[]
	[]	[]	[]

	Customer	Contact details	Gross booking value
Wotif	[]	[]	[]
	[]	[]	[]
	[]	[]	[]
	[]	[]	[]
	[]	[]	[]