



OFFICE OF THE  
CHAIRWOMAN

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON D.C. 20580

June 5, 2015

The Honorable Charles E. Grassley  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Senator Grassley:

Thank you for your May 19, 2015 letter raising concerns about the potentially deceptive conduct of certain third-party online hotel room booking services. In your letter, you state that consumers have found themselves inadvertently booking hotel rooms online with third-party companies that they mistakenly believed were the official websites of well-known and preferred hotel chains. You also express concern that some third-party booking websites masquerade as the intended hotels by misappropriating the hotels' trademarks, imagery, and name in URLs, as well as operating call centers that purport to be the hotels' official reservation service.

As you know, the Commission acts in the interest of all consumers to prevent deceptive or unfair acts or practices, pursuant to the Federal Trade Commission Act, 15 U.S.C. § 45. An act or practice is deceptive if it is likely to mislead consumers acting reasonably under the circumstances and if it is material – that is, likely to affect a consumer's purchasing decision.<sup>1</sup> An act or practice is unfair if it causes or is likely to cause substantial consumer injury that consumers cannot reasonably avoid, and that is not outweighed by benefits to consumers or to competition.<sup>2</sup> In determining whether to take enforcement or other action in any particular situation, the Commission may consider a number of factors, including the type of violation alleged; the nature and amount of consumer injury at issue and the number of consumers affected; and the likelihood of preventing future unlawful conduct and securing redress or other relief.

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<sup>1</sup> See, e.g., *FTC v. Stefanchik*, 559 F.3d 924, 928 (9th Cir. 2009); *In re Telebrands, Corp.*, 140 F.T.C. 278, 290 (2005), *aff'd*, 457 F.3d 354 (4th Cir. 2006); see also Federal Trade Commission Policy Statement on Deception, appended to *Cliffdale Assocs., Inc.*, 103 F.T.C. 110, 174-83 (1984).

<sup>2</sup> 15 U.S.C. § 45(n); see also Federal Trade Commission Policy Statement on Unfairness, appended to *In re Int'l Harvester Co.*, 104 F.T.C. 949, 1070-76 (1984).

The Commission has a strong interest in protecting consumer confidence in the online marketplace, including the robust online market for hotel and travel services. For example, in 2012, the FTC’s Division of Advertising Practices sent out warning letters to 22 hotel operators who provided online estimates of hotel room costs but may have deceived consumers by excluding mandatory “resort fees” for amenities such as newspapers, use of onsite exercise or pool facilities, or internet access.<sup>3</sup> Moreover, in a matter analogous to the conduct you cite, the FTC entered into settlements last year with online ticket resellers for allegedly misrepresenting that they were official entertainment venues offering tickets at face value.<sup>4</sup> These companies designed search engine ads and corresponding websites that used names and URLs mimicking genuine venue names, combined with words and phrases like “official” and “box office” to make it appear that these were official venue or artist websites. I can assure you that the FTC staff will carefully consider the information you provided in determining whether enforcement or other action is appropriate.

Thank you again for sharing your concerns with us, and we appreciate your interest in protecting consumers in the online marketplace for hotel bookings. If you or your staff has any additional questions or comments, please contact Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2946.

Sincerely yours,



Edith Ramirez  
Chairwoman

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<sup>3</sup> See FTC Press Release, *FTC Warns Hotel Operators that Price Quotes that Exclude ‘Resort Fees’ and Other Mandatory Surcharges May Be Deceptive* (Nov. 28, 2012), available at <https://www.ftc.gov/news-events/press-releases/2012/11/ftc-warns-hotel-operators-price-quotes-exclude-resort-fees-other>.

<sup>4</sup> See FTC Press Release, *TicketNetwork and Marketing Partners Ryadd and Secure Box Office Settle Charges of Deceptively Marketing Resale Tickets* (July 24, 2014), available at <https://www.ftc.gov/news-events/press-releases/2014/07/ticketnetwork-marketing-partners-ryadd-secure-box-office-settle>.